Guide to the
MENTAL HEALTH ACT

2005 Edition

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COLUMBIA
Ministry of Health

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This Guide should not be regarded as a substitute for the *Mental Health Act* or a lawyer's advice.

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FOREWORD

The "Guide to the *Mental Health Act*" provides information about British Columbia's *Mental Health Act* (the Act). The *Mental Health Act* has significant implications for those whose lives it touches — those who receive involuntary treatment under the Act, their families, the public and those who use the Act.

The Guide has two purposes:

- making the Act more understandable; and
- promoting consistency in interpreting the Act so people who need involuntary psychiatric treatment receive help in a responsible and lawful manner.

The Guide was developed in consultation with individuals, families, police, physicians, other health care professionals and advocacy and service organizations. It was first published in April 1997. A revised version was published in November 1999 to incorporate significant amendments which were made in the Act at that time. The third and current edition was developed to include some legislative changes, to provide more information on the application of the Act in communities through its "extended leave provisions," and to provide greater clarity and plain language descriptions on a number of key sections of the Act, which were identified by service providers and stakeholders during extensive consultations on the Guide. Key changes and new features are highlighted in the table on the following page. The legal content has been approved by: Gerrit W. Clements, Special Health Law Consultant, Legislation and Professional Regulation Branch, Ministry of Health.

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Guide to the *Mental Health Act* (2005 Edition):

Key Changes & New Features

Patient Rights and Notification to Patients of Their Rights Under the *Mental Health Act*:
Forms 13 and 14 in the Regulation to the Act have been rewritten as plain language, consumer friendly documents to facilitate explaining to patients their rights under the Act. (See Appendix 16)

Co-location of *Mental Health Act* Forms:
All of the 21 forms in the Regulation, which previously were distributed throughout the Guide, have been brought together in one Appendix to facilitate their location and copying. (Appendix 16)

Suggested Additional Forms:
Seven additional, optional forms may be used to assist with a wide range of functions under the Act and they have been brought together as well in one location. (see Appendix 17) Two of these forms are new. They are triage guides to assist Police in determining when they should apprehend patients under the Act and in providing reports to Emergency room staff.

Extended Leave
These new sections were developed to clarify the critical steps and procedures that apply when patients are released from hospital on extended leave; which *Mental Health Act* forms and procedures should be used to ensure that transfers of responsibility for patients are completed appropriately; and how the forms apply when used in the community. (See Section 6 and Appendix 6)

Police Intervention
In response to questions regarding the role of the Police, sections in the Guide concerning Police authority have been rewritten to clarify the authority for them to act both under common law and under the Act. (See Section 3.2 Method 2 and Appendix 5)

Review Panel Procedures
Consistent with changes in the Regulation regarding the composition and operation of Review Panels, the corresponding sections in the Guide have been rewritten to describe the new procedures. (See Section 7.2 and Appendix 7)

Guidelines for Physicians / Renewal of Involuntary Status
The renewal certificate (Form 6) provides authority to continue the patient's involuntary status beyond one month. New sections containing clarification of procedures and instructions that are linked directly to the form were prepared to facilitate the accurate completion of these key certificates. (See Section 5.0 and Appendix 4, section 1.2)

Hospitals and Mental Health Facilities
The lists of designated facilities have been updated and all the names and locations are provided. (See Appendix 1). New Questions and Answers have been added with information explaining the differences between designated and non-designated facilities. (See Section 2.0)

Plain Language & User Friendly Information
Throughout the new Guide, in response to recommendations from key informants, language has been simplified and clarified to assist all users in understanding and using the Act, including the addition of a new Glossary, which references some of the key technical language in the Act. (See Appendix 18.)

GUIDE FORMAT

The main body of the Guide provides a general overview of the *Mental Health Act* and its application. The Appendices provide greater detail on various key provisions of the Act to meet the needs of health practitioners and others involved in the application of the Act. The structure of the Guide reflects the most important provisions of the Act.

This Guide is divided into the following sections:

1) Introduction
2) Designated Facilities
3) Admission
4) Treatment
5) Renewal of Involuntary Status
6) Leave
7) Rights
8) Transfers
9) Discharge
10) Unauthorized Absence
11) Appendices (1-18)

QUESTIONS AND ANSWERS

A series of questions and answers are placed in various sections of this document. These questions and answers are intended to address important issues which may not be repeated elsewhere, hence, the questions and answers should be considered part of the text rather than supplementary detail.

LIMITS OF GUIDE

The Guide is limited to the content of *Mental Health Act* and Mental Health Regulation. Beyond the scope of the Act and Regulation, there are important issues which need to be addressed such as the challenges presented by psychiatric emergencies in rural or remote areas (see Guide section 3.4). Policies and procedures may be developed at the regional or local level to meet such needs but must be consistent with the Act.

FORMS

All of the forms under the *Mental Health Act* are included in Appendix 16. Note that there have been changes to Forms 7, 13 and 14 and that the revised forms are in Appendix 16.

Additional forms are provided in Appendix 17 as examples of forms that have proven useful in some communities. These forms are not required under the *Mental Health Act* but are proposed for consideration.

TERMINOLOGY

The Guide uses some of the terminology of the Act because some of these terms have a specific legal meaning or definition under the Act. For example, "Mental Disorder" is specifically defined in Section 1 of the Act and for this reason is not interchangeable with mental illness. Nevertheless, an effort has been made in the Guide to use more modern language. A Glossary of some of the terms used in the Act is provided in Appendix 18

REFERENCES

References to the Act pertain to British Columbia's *Mental Health Act* (Chapter 288 of the Revised Statutes of British Columbia, 1996) as amended by the Mental Health Amendment Act, 1998 (Chapter 38, often referred to as Bill 22) and consequential amendments resulting from the *Administrative Tribunals Act* (Statutes of British Columbia, 2004, Chapter 45).

Mental Health Regulation as amended by B.C. Reg. 79/2001; 132/2005.

This document may be photocopied. Blank *Mental Health Act* forms may be photocopied and used for the purposes of the Act.

1.0 INTRODUCTION

All Canadian provinces and territories have legislation to treat and protect people with severe mental disorders and to protect the public. This Guide provides information about British Columbia's *Mental Health Act* (the Act).

The current *Mental Health Act* became law in 1964 and the legislation has been updated many times since then. Its purpose is to ensure "...the treatment of the mentally disordered who need protection and care...."(BC Supreme Court decision [*McCorkell v. Riverview Hospital*], 1993). The *Mental Health Act* helps provide people with mental disorders the treatment and care they need when they are not willing to accept it.

This Guide is intended for use by consumers, families, hospitals, physicians and other health care providers, police, advocacy organizations and other interested people.

1.1 Why is the *Mental Health Act* Necessary?

Most people in British Columbia requiring hospital treatment for mental disorders are voluntarily admitted to hospital, just like people with other illnesses. A sizable number of people with serious mental disorders , however, refuse to accept psychiatric treatment. (In 2003 there were approximately 8,000 involuntary admissions.)

Without involuntary admission and treatment made possible by the *Mental Health Act*, these seriously mentally ill people would continue to suffer, causing significant disruption and harm to their lives and the lives of others.

With involuntary hospital admission and treatment, most people quickly improve to the point that they can continue as voluntary patients or resume their lives in the community. The majority of people involuntarily admitted are discharged within one month.

1.2 Safeguarding Individual Rights

The main purpose of the *Mental Health Act* is to provide authority, criteria and procedures for involuntary admission and treatment. However, the Act also contains protections to ensure that these provisions are applied in an appropriate and lawful manner. Safeguards for the rights of people involuntarily admitted to a psychiatric facility include rights notification, medical examinations at specified time periods, second medical opinions on proposed treatment and access to review panels and the court.

2.0 DESIGNATED FACILITIES

2.1 Hospitals that Can Admit Involuntary Patients

A person can only be admitted as an involuntary patient under the *Mental Health Act* to facilities designated by the Minister of Health. The term "designated facility" in the Act and in this Guide refers to designated inpatient "Provincial mental health facilities", "psychiatric units" and "observation units". A list of hospitals and other facilities designated as psychiatric units, Provincial mental health facilities (inpatient) and observation units is in Appendix 1.

Observation units are short stay units in small hospitals, where the person is stabilized within a few days and, if continuing inpatient treatment is necessary, transferred. Section 22(7) of the Act and Section 2(2) of the Regulation require that a patient admitted to an observation unit must be transferred to a Provincial mental health facility or a psychiatric unit within 5 days after a second Medical Certificate is received by the director of the observation unit. This transfer requirement applies only to patients who need further inpatient care and does not apply if the patient is discharged, or released on extended leave (Section 6.0).

2.2 Hospitals that Cannot Admit Involuntary Patients

There is no legal authority for a hospital or any other health care facility that has not been designated as a provincial mental health facility or a psychiatric unit or observation unit to hold or admit a person for whom a Medical Certificate has been completed. The hospital or certifying physician may have the patient transported to the designated facility. It is the mutual obligation of the closest designated facility and the non-designated hospital to find a bed for the patient. A non-designated hospital should only care for the patient while "in transit" to a designated facility. As an example, it is usually preferable to temporarily admit to hospital someone awaiting transportation to a psychiatric unit than to hold them in a jail cell. Non-designated hospitals are advised to develop protocols with the closest designated facility.

2.3 Directors of Designated Facilities

The person responsible for the operation of a designated facility is referred to in the *Mental Health Act* as the "director." The director is responsible for ensuring each patient is provided with professional service, care and treatment appropriate to the patient's condition (Section 8 of the Act).

Directors are appointed by the authority, usually a health authority (i.e., the Board), operating the designated facility (Section 3 of the Regulation).

The director may authorize specific individuals or positions to carry out the director functions. For example, physicians may be authorized to admit and discharge. The senior nurse on duty in the hospital or the ward or a physician could be authorized to sign consent forms for involuntary treatment or warrants after regular business hours. These authorizations should be in written form, signed by the director.

Appendix 10 provides guidelines on the authorization of others by the director

2.4 Complaints and Suggestions about a Designated Facility

The first step in complaint resolution is to discuss the concern with a member of the treatment team. This can prove beneficial in many ways, such as clarifying how a decision affecting the patient was made. It also informs the treatment provider(s) that there is a concern or complaint.

Complaints or suggestions can also be made to other hospital staff, the director, hospital administration, a health authority or the Provincial Ombudsman (listed in the blue pages of the telephone directory under Government of British Columbia).

QUESTIONS ABOUT DESIGNATED FACILITIES

1. *What is the process to have a facility designated under the Mental Health Act?*

   A letter must be sent to the Minister of Health from the board chair or chief executive officer (CEO) of the health authority requesting the designation. Before granting the designation, however, the Minister must be assured that the facility is able to provide appropriate care to the patients and to comply with the requirements of the Act.

2. *Who appoints the director of a designated facility?*

   The health authority must appoint the director (Section 3, Mental Health Regulation).

3. *Does the Mental Health Act require that the director of a designated facility be a physician?*

The Act does not require the director to be a physician, although in the vast majority of inpatient facilities, the directors are physicians.

3.0 ADMISSION

This section of the Guide is about admitting someone with a mental disorder to a designated facility for needed treatment.

3.1 Voluntary Admissions

FOR ADULTS (16 YEARS OF AGE OR OLDER – FOR THE PURPOSE OF THIS ACT ONLY)

A number of hospitals that operate under the authority of the *Hospital Act* are also designated as facilities under the *Mental Health Act* (see Appendix 1). An adult may voluntarily seek admission to a designated facility for treatment of a mental disorder under either the *Hospital Act* or the *Mental Health Act*.

Voluntary admissions under the *Mental Health Act* require the person to request admission using Form 1, Request for Admission (Voluntary Patient), in Appendix 16. A physician and the director must agree to the person's admission. A signed Form 2, Consent for Treatment (Voluntary Patient), in Appendix 16, is also required. Voluntary patients may discharge themselves at any time – just like non-psychiatric patients admitted to a hospital under the *Hospital Act*.

Most hospitals admit and treat voluntary psychiatric patients in the same way that they deal with any other patients, in which case Form 1 and Form 2 are not required.

FOR CHILDREN AND YOUTH (UNDER 16 YEARS OF AGE – FOR THE PURPOSE OF THIS ACT ONLY)

Young persons 16 years of age or over are regarded as adults if they are mentally capable to admit themselves to hospital and give consent for treatment. Children under age 16 may be admitted by their parent or guardian as voluntary patients under the *Mental Health Act* if the admitting physician and director agree. It is recommended that such children be admitted under the *Mental Health Act*, rather than the *Hospital Act* because the *Mental Health Act* provides direction on admitting children and youth and protects their rights by providing for regular reviews and access to a Review Panel. Form 1, Request for Admission (Voluntary Patient), must always be filled out by the parent or guardian. This is also the case for Form 2, Consent for Treatment (Voluntary Patient), assuming that the child does not qualify as a "mature minor" under the *Infants Act*.

QUESTIONS ABOUT VOLUNTARY ADMISSION

4. *Why might a person, who is willing to be admitted to a designated facility as a voluntary patient, instead be admitted as an involuntary patient?*

The person may be too ill to be legally capable of making a valid request for admission or of consenting to treatment. The physician may be concerned about risks to the patient or others if the patient leaves the hospital without permission.

5. *What can be done if voluntary patients who may harm themselves or others leave a designated facility?*

There are two ways to return the patient to the designated facility:

(i) In an emergency, the police should be called. If necessary, the police can be asked to apprehend the person under section 28 (1) of the *Mental Health Act*. In this case, the police can act on the information provided by the hospital staff or others showing the person is "apparently suffering from mental disorder" and "is acting in a manner likely to endanger their own safety or that of others". The term "safety" here is not restricted to the potential of physical violence to self or others. For example, it also covers situations where the person's safety is endangered because of exposure to extremely cold weather conditions or gross self-neglect.

Upon determining that the criteria under section 28(1) are met, the police would return the person to a designated facility. A hospital physician would then examine the patient to determine whether or not to complete a Form 4 Medical Certificate (see Appendix 3, section 6.0), admitting the person for up to 48 hours. The person could then be continued as an involuntary patient by completion of a second Medical Certificate, changed to voluntary status or discharged, as long as this happens before the end of the 48 hours. Note: A patient admitted to an observation unit must be transferred to a provincial mental health facility or psychiatric unit within five days from the date on which the second Medical Certificate was received by the director.

(ii) If a physician has examined the patient within the previous 14 days and the examination leads the physician to conclude that the patient meets the criteria for involuntary admission, the physician can complete a Medical Certificate (Form 4). The patient may be returned to hospital on the authority of the Medical Certificate. The physician can sign the certificate any time up to 14 days after the examination. It should be remembered that the person would have to be admitted within 14 days from the date the physician examined the person.

The Medical Certificate provides authority for the police, paramedics or others to apprehend and transport the person to a designated facility, which can admit the person for up to 48 hours. The person can then be continued as an involuntary patient by completion of a second Medical Certificate (section 22), changed to voluntary status or discharged, as long as this happens before the end of 48 hours.

6. *How does a person who is admitted as an involuntary patient become a voluntary patient?*

The involuntary patient may request voluntary status from the attending physician. If the physician agrees, the patient is discharged as an involuntary patient, and admitted as a voluntary patient by signing Form 1. If the designated facility also comes under the authority of the *Hospital Act*, a patient may instead become voluntary under the *Hospital Act*, just like any non-psychiatric patient; in this case Form 1 is not required.

If the patient's physician agrees, a person discharged from involuntary status by a Review Panel or court may be admitted as a voluntary patient.

7. *Who handles complaints about a hospital that won't admit a voluntary patient?*

Complaints may be made to the director of the designated facility, the hospital administration or the Provincial Ombudsman (listed in the blue pages of the telephone directory under Government of British Columbia).

3.2 Involuntary Admissions

There are three methods of arranging for involuntary admission:

1) Through a physician's Medical Certificate. This is the preferred method.
2) Through police intervention. If a person will not go to a hospital or a physician's office, or if a physician cannot visit the person, the police may be able to help.
3) Through an order by a judge. If the police cannot help, a judge may be able to assist.

METHOD 1: MEDICAL CERTIFICATES

Medical Certificates (Form 4)

One Medical Certificate (Form 4) is required to provide legal authority for an involuntary admission for a 48-hour period. A Medical Certificate is completed by a physician who examines a person and finds that the person meets the involuntary admission criteria of the *Mental Health Act* (Section 22(3)). A copy of Form 4 is in Appendix 16. Also, see Appendix 3.

The completed Medical Certificate provides authority for anyone, including ambulance personnel, police or, if the physician believes it is safe, relatives or others, to take the person to a designated facility (Appendix 1). With the approval of the director or designate, the person may be admitted for up to 48 hours.

A second Medical Certificate by a different physician must be completed within 48 hours of admission, otherwise the patient must be discharged or admitted as a voluntary patient. Once the second Medical Certificate is completed the person may be admitted as an involuntary patient for up to one month from the day of initial admission. The second certificate should be completed as soon as possible, taking into account the necessity for a thorough examination, which may include receiving information from other sources. The patient must be informed that the second Medical Certificate has been completed.

To extend involuntary hospitalization beyond the first month, a physician must examine the person and complete a Renewal Certificate (Form 6) before each certificate period expires. A copy of Form 6 is in Appendix 16. Also see Appendix 4, section 1.2. The patient must again be told the rights information given upon admission (see section 7.1 Rights Information).

Criteria for Involuntary Admission

In order for a physician to fill out a Medical Certificate, the physician must have examined the patient and be of the opinion the patient meets ALL four of the criteria. The opinion must be based upon information from the examination and preferably includes information received from family members, health care providers or others involved with the person. The criteria are that the patient:

- is suffering from a mental disorder that seriously impairs the person's ability to react appropriately to his or her environment or to associate with others;
- requires psychiatric treatment in or through a designated facility;
- requires care, supervision and control in or through a designated facility to prevent the person's substantial mental or physical deterioration or for the person's own protection or the protection of others; and
- is not suitable as a voluntary patient.

The words "in or through" a designated facility mean that a patient initially requires inpatient treatment as an involuntary patient, but may subsequently be placed on leave and continue to receive psychiatric treatment in the community. The patient's care, supervision and control may be retained by the designated facility or delegated to an authorized physician in the community.

Validity of the Medical Certificates

Unless the person is admitted, a Medical Certificate is valid for only 14 days following the date of the examination. If the person is not admitted during this 14-day period, the certificate becomes invalid.

Only a physician licensed to practice medicine in British Columbia may complete a Medical Certificate. An educational license is not sufficient. The physician does not have to be a psychiatrist.

QUESTIONS ABOUT INVOLUNTARY ADMISSION

8. *To be involuntarily admitted, must a person be in danger of causing bodily harm to themselves or others?*

No. The involuntary admission criteria in section 22 of the British Columbia *Mental Health Act* do not contain the word "dangerous". Rather, the criteria specify admission to prevent substantial mental or physical deterioration or for a person's own protection or the protection of others. While the Act does not define "protection", this term includes more than a risk of bodily harm. Mr. Justice Donald's ruling in the British Columbia Supreme Court case of *McCorkell v. Riverview Hospital* (1993) interpreted what protection means. The judge stated:

"I agree with [the]...argument that the Manitoba criteria bear a close similarity to the British Columbia standard. In the Manitoba legislation, "serious harm" is not qualified; it can include harms that relate to the social, family, vocational or financial life of the patient as well as the patient's physical condition. The operative word in the British Columbia Act is "protection" which necessarily involves the notion of harm." (pp. 298-299)

9. *Can someone who apparently has a mental disorder and is giving away large sums of money be involuntarily admitted to hospital?*

Probably. If, for example, giving away a lot of money is a symptom of an acute manic episode, the person would probably meet the four criteria for involuntary admission:

- the person has an apparent mental disorder;
- psychiatric treatment (such as antipsychotic or mood stabilizing medication) is needed;
- there is a need to protect the person, not only from the continuation of untreated manic symptoms, but also to protect the person and their dependents from financial hardship; and
- voluntary admission is not suitable because the person does not believe they are ill and refuses treatment.

10. How long can a person be kept in hospital on the authority of the medical certificates?

One Medical Certificate allows the person to be an involuntary patient for up to 48 hours. When the second Medical Certificate is completed within 48 hours of admission, the person may be kept for up to one month from the date of hospital admission ("date of hospital admission" means the date the person is in hospital and one Medical Certificate has been completed). An additional month is permitted on a first Renewal Certificate, an additional three months on a second Renewal Certificate and an additional six months on a third or any further Renewal Certificate (see section 5.0: Renewal of Involuntary Status).

A patient may be discharged from involuntary status at any time prior to expiration of a Medical Certificate or Renewal Certificate. This can occur:

- if the patient and physician agree the patient can become a voluntary patient; or,
- if the physician is of the opinion the patient has improved and no longer meets the criteria for involuntary status; or,
- on an order of a Review Panel (with the physician's consent, the patient may be admitted as a voluntary patient); or
- on an order of the court (with the physician's consent, the patient may be admitted as a voluntary patient).

11. When a person is admitted for the 48 hour period, exactly when does the 48 hour period begin?

The 48 hour period begins at the time of admission, which must be recorded on the patient's clinical record.

12. Can people with a mental handicap be admitted as involuntary patients under the Act?

Mental retardation was removed from the definition of mental disorder by the 1998 amendments to the *Mental Health Act*. To be admitted, the person would also have to have a mental disorder and meet the other criteria for involuntary admission.

13. *In carrying out an examination for certification, must a physician interview and directly observe the person?*

The law provides no interpretation of the word "examine" in section 22 of the Act. Ordinarily, before being able to certify the person, a physician would interview and observe them. In an unusual case, however, it would be justifiable for a physician to complete a certificate on the basis of observations of the person and/or listening to the person speak and, if available, information supplied by those who know the person. An example is an extremely psychotic person who clearly meets the criteria for involuntary admission, but refuses to be examined. The admission would be followed by a thorough psychiatric assessment, required to complete the second Medical Certificate. The second Medical Certificate, required to extend the patient's admission beyond the initial 48-hour period, must be based on the physician's direct examination of the patient. Collateral information may also be considered.

For physicians' guidelines for completion of the first Medical Certificate, see Appendix 3.

14. *Can a relative ride in the ambulance with a certified patient?*

The *Mental Health Act* does not address this. The ambulance personnel would have to agree to the request.

15. *Can a person, such as a physician, police officer, relative or neighbor, who assists in having someone involuntarily admitted under the Act be sued for damages?*

Nobody can prevent a person from suing. However, a person acting in good faith and with reasonable care is protected by the Act from being found liable for damages (section 16).

Appendix 5 contains information for police.

Appendix 12 contains information for paramedics.

METHOD 2: POLICE INTERVENTION

When Can Police Intervene?

If it is not possible for a person who apparently has a mental disorder to see a physician, the Act authorizes the police to intervene in some circumstances.

Police involvement with people with mental disorders can arise from complaints about the person by others, direct observation of the person's behavior by the police or in response to requests for assistance from health professionals or family members. There is no need for the person to have committed a criminal offence before the police can be involved under the *Mental Health Act*.

Requests for police assistance often involve emergency or urgent situations where the usual procedures of seeing a physician or going to the hospital are not possible.

Police Authority

Police have powers under section 28 (1) of the *Mental Health Act* to apprehend a person and take the person to a physician for examination. The word "apprehend" is not defined in the Act, but it does not mean arrest. The courts have generally found the existence of a common law authority for police to enter a private dwelling, by force if necessary, when there are reasonable grounds for believing that there is a situation inside which involves the need to protect life and prevent injury. Since section 28(1) describes the police power in terms of a person likely endangering the safety of self or others, the police can clearly enter using force without requiring a warrant.

Before a police officer can apprehend a person under section 28(1), the officer must be satisfied, on the basis of personal observations, and/or on information received from others that the person is apparently a person with a mental disorder and acting in a manner likely to endanger their own safety or the safety of others.

Where a police officer takes a person into custody under section 28(1) the police officer must immediately take the person to a physician for examination. Usually, the police will take the person to a hospital rather than to a physician in the community. The physician applies the involuntary admission criteria and, if the criteria are met, fills out a Medical Certificate. This certificate is legal authority for the officer to take the person to a designated facility and for the admission of the person for examination and psychiatric treatment for up to 48 hours.

During this period, the person will be examined by a physician and a second Medical Certificate may be written, extending the patient's involuntary admission for one month from the date of admission.

If the admission is to an observation unit, the patient must be transferred to a psychiatric unit or to a Provincial mental health facility before the end of the five-day period from the date the director receives the second Medical Certificate. If the criteria of section 22 are not met, the person must be changed to voluntary status or discharged from the designated facility.

The criteria used by police officers (section 28 (1)) are different from those used by physicians (section 22). A police officer must be satisfied the person is likely to endanger their safety or the safety of others. This "safety" element is a higher standard to meet than the criteria used by physicians.

For More Information

A more detailed outline of the role of police under the *Mental Health Act* is provided in Appendix 5.

Appendix 17 contains examples of triage forms used by some municipal police departments and some RCMP detachments to assess a person to determine if the person should, under Section 28, be conveyed to a physician for an examination. These forms are not required under the *Mental Health Act*.

QUESTIONS ABOUT THE ROLE OF THE POLICE

16. To be taken into custody by police under the Mental Health Act, must a person with an apparent mental disorder commit a crime or be physically violent?

No. The person need not commit a crime or be physically violent. The police officer must be satisfied the person is apparently suffering from a mental disorder, as defined in the Act, and is acting in a manner likely to endanger their own safety or that of others. The term safety is not restricted to the potential of physical violence to self or others. For example, it also covers situations where the person's safety is endangered because of exposure to extreme cold weather conditions or gross self-neglect.

17. If a police officer or an ambulance is involved, does it mean the person will be automatically admitted and kept in hospital?

No. Regardless of how a person is transported to a hospital, the decision to admit the person is made by the director or designate after a physician has examined the person and completed a Medical Certificate.

18. Is there authority under the Mental Health Act for police to assist health workers, who are conducting an examination or providing treatment, in managing a patient?

No. However, the police have authority under both the Criminal Code and common law to protect life and property, preserve the peace and enforce the law. Therefore, if a patient is causing a disturbance or is becoming violent, the police may intervene to help hospital staff.

Police can use the same authority to accompany a mental health worker to a patient's residence where there is reason to believe that the safety of the worker or the patient is threatened.

19. When can police leave after bringing a person with an apparent mental disorder to hospital?

The *Mental Health Act* provides no direction on this. However, the logical interpretation of section 28 is that the police must retain custody until the examination is completed.

The hospital has no authority to hold the person and prevent them from leaving or restraining them until a Medical Certificate has been completed. Also, staff safety during this period may require that police assistance be provided.

Given the demand for police services in the community, it is important that the hospital assume responsibility for the patient as quickly as possible. Because of the seriousness of patients' disorders, rapid assessment is recommended.

20. *Are police required to fill out a written report for the physician when a person is brought under section 28 of the Act to a physician for examination?*

The Act does not require it, however, it has become a practice in some communities where an understanding has been reached between the police and the staff of a designated facility. The report contains any relevant information obtained by police which would be useful to physicians and hospital staff. The use of a written report by police is therefore strongly recommended. Examples of reports are in Appendix 17.

21. *Do police require a separate warrant (e.g., "Feeney warrant") to enter a private dwelling to take a person into custody under the Mental Health Act?*

A police officer's determination that section 28(1) applies, or a warrant in Form 10 issued by a judge or justice of the peace or a warrant in Form 21 issued by the director of a designated facility, provide adequate authority under the *Mental Health Act* for police to enter a private dwelling. "Feeney warrants" are related to Criminal Code offences.

22. *Does the Mental Health Act apply to people arrested by police for criminal offences?*

Appendix 8 details the points at which a person arrested for an alleged offence may receive voluntary or involuntary mental health services. People with a mental disorder who are on remand or detained under the Criminal Code can, by court order, be taken to Forensic Psychiatric Services. Treatment may then be authorized under the *Mental Health Act*. For further information about these services, contact Forensic Psychiatric Services at (604) 524-7700 or at www.forensic.bc.ca.

METHOD 3: AN ORDER BY A JUDGE

Where it is not possible for a person with an apparent mental disorder to be examined by a physician or for police to intervene, the Act provides another method of arranging for involuntary admission.

Anyone (including family, neighbors or health professionals) who has good reason to believe a person has a mental disorder and apparently meets the criteria for involuntary admission used by a physician (section 22) can apply to a Provincial Court judge or, if no judge is available, a justice of the peace (section 28 (3)) to have the person involuntarily admitted to hospital. Form 9, Application for Warrant (Apprehension of Person with Apparent Mental Disorder for Purpose of Examination), should be used and provides helpful guidance to those applying to the court. Form 9 is in Appendix 16 or can be obtained from a courthouse.

If the judge (or justice of the peace) is satisfied that the above conditions are met, and the usual admission procedures cannot be used without dangerous delay, the judge may issue a warrant under section 28 (4) of the *Mental Health Act* (Form 10, Warrant (Apprehension of Person with Apparent Mental Disorder)).

The warrant provides authority to all peace officers to take the person into custody and for a designated facility to admit the person for psychiatric assessment and treatment for up to 48 hours.

During this 48 hour period, the person will either be admitted under section 22 of the Act and hospitalized for up to one month, admitted as a voluntary patient, or discharged.

For information on this option, contact the local provincial courthouse or mental health service. Mental health services may be listed in local telephone directories under the Health Authority.

See Appendix 11, Applying to a Judge for Examination of a Person with an Apparent Mental Disorder.

See Appendix 8 for a diagram about admission processes.

3.3 Assistance from Relatives and Others

People with an apparent mental disorder who appear to meet the involuntary admission criteria might refuse to be examined by a physician or reject appropriate treatment.

Ways in which family members, friends or others may help are outlined in Appendix 2.

QUESTIONS ASKED BY RELATIVES AND OTHERS

23. Are there alternatives to physicians and police that family members can turn to for advice or assistance?

Yes. The nearest mental health service or hospital emergency department or designated facility (Appendix 1) may be able to assist. Mental health services may be listed in local telephone directories under the Health Authority. Advocacy and support groups may also be of help.

24. What can be done if a person with a mental disorder is apparently in need of protection because the person has stopped taking medication and refuses to see a physician?

See Appendix 2, Assistance from Relatives and Others in Obtaining Treatment.

25. Is it true my son's doctor cannot tell me anything about my son, who has been involuntarily admitted to a designated facility?

It is preferable for a person to consent to the release of information. However, where disclosure is required for continuity of care or for compelling reasons, such as if someone's health or safety is at risk, a public body such as a hospital should release necessary personal information without the client's consent. See Appendix 13.

3.4 Emergencies in Rural/Remote Areas

Psychiatric emergencies in rural or remote areas are not specifically addressed in the *Mental Health Act* but present special challenges. The designated facilities may be located far from the community where a person needs psychiatric help, and immediate transportation of the person to a designated facility is not always possible. Health Authority protocols which provide for the safety and treatment of patients consistent with the Act are needed.

Health regions are encouraged to develop local protocols. They should plan in advance additional steps for dealing with emergencies.

4.0 TREATMENT

The *Mental Health Act* (Appendix 14) makes it clear that the purpose of an involuntary admission is to treat a person's mental disorder.

- That the person "requires treatment" for the mental disorder is one of the criteria for involuntary admission under section 22. Treatment is defined in the Act as "safe and effective psychiatric treatment and includes any procedure necessarily related to the provision of psychiatric treatment".
- Section 8 (a) states the director:

  "...must ensure that each patient admitted to the designated facility is provided with professional service, care and treatment appropriate to the patient's condition and appropriate to the function of the designated facility and, for those purposes, a director may sign consent to treatment forms for a patient detained under section 22, 28, 29, 30 or 42...."

4.1 Consent for Treatment

VOLUNTARY PATIENTS

When a person is admitted to hospital for treatment of a mental disorder as a voluntary patient under the *Mental Health Act*, their consent is required on Form 2 before the treatment can be provided. If the person is under 16 years of age the consent of a parent or guardian is usually required.

See Consent for Treatment (Voluntary Patient), Form 2 (Appendix 16).

INVOLUNTARY PATIENTS

The *Mental Health Act* provides for compulsory treatment of all involuntary patients. The director may authorize treatment for patients who are mentally incapable of making a consent decision about the proposed treatment. Prior to treatment of involuntary patients, the Consent for Treatment (Involuntary Patient) form (Form 5, Appendix 16) must be completed and signed. Failure to do so could lead to legal liability.

During the process of obtaining a consent decision, the physician must inform the patient of the nature of their condition, as well as the reasons for and likely consequences of the treatment. In the process (described in Appendix 4, section 1.3) of completing this form, the physician evaluates the patient's mental capability to make a consent decision regarding the proposed treatment.

Where the patient is evaluated by the physician to be mentally capable of consenting to treatment and the patient signs the consent form, treatment may begin after the form is signed by a witness and physician. Where a patient is capable but refuses to sign the form, or where the patient is incapable, the form is given to the director or designate. These individuals have powers under sections 8 and 31 of the Act to sign the consent form on behalf of a patient and thereby authorize treatment. It is strongly recommended that wherever possible, the person signing Form 5 as the director or designate should be someone other than the treating physician.

QUESTIONS ABOUT TREATMENT OF INVOLUNTARY PATIENTS

26. Can treatment be given in an emergency situation if the hospital admission procedure has not yet been completed?

Yes. Section 12 (1) of the *Health Care (Consent) and Care Facility (Admission) Act* gives authority to provide urgent or emergency care without consent to adults if:

a) it is necessary to provide the health care without delay in order to preserve the adult's life, to prevent serious physical or mental harm or to alleviate severe pain,

b) the adult is apparently impaired by drugs or alcohol or is unconscious or semi-conscious for any reason or is, in the health care provider's opinion, otherwise incapable of giving or refusing consent,

c) the adult does not have a substitute decision maker, guardian or representative who is authorized to consent to the health care, is capable of doing so and is available, and

d) where practicable, a second health care provider confirms the first health care provider's opinion about the need for the health care and the incapability.

Common law also recognizes that, in an emergency, where a person's life is at risk or where there may be serious harm to the person's health and where the individual is incapable of consenting to treatment, emergency treatment may be provided to a person of any age without that person's consent. Common law suggests that these emergency powers include the restraint of a person who is likely to cause serious harm to themselves or others.

27. *Can an involuntary patient or their family obtain a second medical opinion or choose the treatment, the attending physician or a transfer to another hospital?*

Second medical opinions on the patient's treatment plan may be requested (see 7.4 Second Medical Opinion on Appropriateness of the Patient's Treatment). Requests to accommodate other wishes that the patient or family members may have can be made to the physician and hospital administration.

28. *Does the Act refer to the use of restraint, seclusion, electroconvulsive therapy (E.C.T.) and other types of treatment?*

No. These are not addressed in the Act. However, hospitals have policies regarding them and the Act's definition of "treatment" includes "...any procedure necessarily related to the provision of psychiatric treatment."

29. *Is verbal consent valid?*

All consents must be given in writing on Form 5.

30. When attempting to obtain consent for treatment, what must the physician tell the patient about the treatment?

The Consent for Treatment (Involuntary Patient) form (Form 5) asks the capable patient to confirm that the nature of the condition and the reasons for, and likely consequences of, the treatment(s) have been explained.

31. What criteria do physicians use to determine the capability or incapability of a patient to consent to treatment?

The Consent for Treatment (Involuntary Patient) form (Form 5) requires the physician to certify that, to the best of the physician's judgment, the patient is incapable of appreciating the nature of the treatment and/or the need for treatment and is, therefore, incapable of giving consent.

32. If a person, while mentally capable, expresses a preference regarding treatment in the event of a serious mental disorder, will those wishes be followed by physicians?

"Expressed wishes" are not addressed by the *Mental Health Act*.

Physicians should consider the patient's wishes. These wishes would ordinarily be followed if they are consistent with the obligation placed on the director by section 8 of the Act to ensure each patient is provided with care and treatment appropriate to their mental disorder.

33. Can the director of a designated facility authorize non-psychiatric medical procedures (such as antibiotics or surgery) needed by an involuntary patient?

The *Mental Health Act* only allows the director to authorize "treatment... appropriate to the patient's condition and appropriate to the function of the designated facility". The definition of "treatment" is specifically limited to "psychiatric treatment" and "includes any procedure necessarily related to the provision of psychiatric treatment".

If the patient is capable of giving consent to the non-psychiatric treatment and does so, the treatment can be provided. Should the patient refuse but be capable of giving consent, the treatment cannot be provided.

If the patient is not capable of making a decision with respect to non-psychiatric treatment, a substitute decision-maker must be contacted in accordance with the *Health Care (Consent) and Care Facility (Admission) Act*. In an emergency, section 12(1) of that Act applies.

34. *What if a patient, relative or other person has a complaint about the treatment provided to an involuntary patient?*

Complaints can be brought to the attention of the patient's physician, the director of a designated facility, hospital administration, health authority or the Provincial Ombudsman.

35. *In the case of Starson v. Swayze, the Supreme Court of Canada found that Mr. Starson, an involuntary patient, was capable of making a treatment decision and could refuse treatment. Does the Supreme Court of Canada finding apply to British Columbia?*

The decision does not apply to British Columbia. It was made under Ontario mental health legislation which allows treatment refusal by involuntary patients who are found to be capable of making a treatment decision. In British Columbia, the Act provides for compulsory treatment of all involuntary patients.

5.0 RENEWAL OF INVOLUNTARY STATUS

Section 22 (involuntary admissions) of the *Mental Health Act* provides for the admission of a person to a designated facility as an involuntary patient. The process involves the completion of a legal document (Form 4) by physicians. Form 4, Medical Certificate (Involuntary Admission) is in Appendix 16.

Section 23 of the Act (duration of detention) directs that an involuntary patient may be hospitalized ('detained') for a period of one (1) month and then discharged unless the authority for the hospitalization is renewed.

Section 24 of the Act (review of detention) provides direction on how to renew the authority to keep an involuntary patient hospitalized beyond the first month if this is necessary. This process involves the completion of a legal document (Form 6) by physicians. Form 6 Medical Report on Examination of Involuntary Patient (Renewal Certificate), is in Appendix 16.

Important issues related to the renewal of involuntary status are discussed below:

5.1 Periods of Renewal

If an involuntary patient requires continued hospitalization beyond the first one month period authorized by the two medical certificates (Form 4) under section 22, the length of the next period is one (1) month.

If hospitalization is required beyond this second one month period, the length of the next period is three (3) months.

Beyond this 3 month period all successive periods of involuntary hospitalization are 6 months in length.

It is very important to accurately determine when the periods start and stop to avoid lapsing of the authority to involuntarily hospitalize a patient.

The admission date (i.e., the date the patient was admitted to a designated facility as an involuntary patient – not necessarily the date of the first or second Medical Certificate (Form 4) – becomes the key date from which all future periods of involuntary hospitalization are derived.

It is important not to interpret a 'month' as being 30 days or 31 days. This is because the provincial *Interpretation Act* provides direction on how to calculate periods in terms of months. The basic rule is that a "month" means the corresponding day of the next month less a day. For the purposes of involuntary hospitalization, where the admission date has a corresponding day in the next month, the period ends at midnight the day before. The way this works is as follows:

If a patient's involuntary admission date is March 15…

- the first one month period of involuntary hospitalization is from March 15 till midnight on April 14;
- the second one month period will be from April 15 till midnight on May 14;
- the three month period will be from May 15 till midnight on August 14; and
- the six month period will be from August 15 through February 14.

When there is no corresponding date in the month the period ends, the *Interpretation Act* directs that the last day of that month be used. In the example of a month starting on January 31, the one month period of hospitalization will end at midnight on February 28 (or 29 in a leap year), with the next period beginning on March 1. From that point, all further renewal periods would take effect from the 1st of the month in perpetuity. The calculation reverts to the original rule in that there will always be a corresponding day in the next month. (See Table 1: Renewing Involuntary Status, Long Month to Short Month Scenarios, in Appendix 4 for date calculations under these circumstances.)

Each period of involuntary hospitalization must run out to its concluding date. They may not be shortened or lengthened by the director or a physician. In other words, the next period of hospitalization starts after the conclusion of the current period, not when the patient is examined for renewal or when the Form 6 is signed (see next sections).

5.2 When to Examine for Renewal

Section 24(1) directs that toward the end of the first and second months of involuntary hospitalization and during the last month of the 3 month and 6 month periods, the patient must be examined by a physician. In other words, within one month of the end of each period of hospitalization, the patient must be examined by a physician for the purpose of determining whether the admission criteria (see section 3.0 Admission) continue to describe the condition of the patient.

The Act offers no guidance regarding how many days prior to the end of the last month of a period the examination must be completed, however, it is recommended this be done reasonably close to the end of the period.

The examination (and the Form 6 documenting the conclusions of the examination – see below) must be completed before midnight on the last day of the current period.

(Note: If there has been an oversight and the examination has not been completed in time but the patient continues to require involuntary hospitalization, the patient must be admitted under Section 22 again (See section 3.0 Admission) with renewal of hospitalization occurring consistent with Sections 23 and 24.

The rules for examination of patients for renewal of hospitalization also apply to patients on Extended Leave (see section 6.0 Leave).

5.3 The Examination and Written Report (Form 6)

Section 24(2.1) provides direction to the director or a physician authorized by the director in regard to the nature of the examination for renewal of involuntary hospitalization. The examinations must include consideration of the following…

i. reasonably available evidence of the patient's:

- history of mental disorder
- history of hospitalization for (psychiatric) treatment, and
- history of compliance with treatment plans following hospitalization.

ii. whether there is a risk that the patient, if discharged, will be at significant risk of deterioration and re-hospitalization as a result of failing to follow recommended treatment plans.

Based on these considerations, the purpose of the examination is for the physician to determine if the involuntary admission criteria continue to describe the condition of the patient. If the examination leads the physician to conclude that the patient's condition still meets the involuntary admission criteria, then the physician must complete Form 6, Medical Report on Examination of Involuntary Patient (Renewal Certificate).

If the examination leads the physician to conclude that the involuntary admission criteria do NOT describe the condition of the patient, the patient must be discharged. Appropriate discharge planning is good clinical practice. (Note: Once discharged from involuntary hospitalization, a patient may be admitted as a voluntary patient if appropriate. See section 3.0 Admission).

Policy to Authorize Physicians

It is recommended each designated facility have a policy through which the director authorizes the physicians practicing in the designated facility to examine patients and complete Form 6 subject to section 24 of the *Mental Health Act*.

The completed and signed Form 6 is the authority for continued hospitalization of the involuntary patient. (Note: completion of the Form 6 does NOT conclude the current period of hospitalization at the time Form 6 is signed. The renewal of authority commences at the end of the current period – see preceding discussion.)

The Form 6 (and the examination on which it is based) must be completed and signed by the examining physician before midnight on the last day of the current period. If this is not done, new medical certificates (Form 4) would be required for further involuntary care and treatment. A certificate or renewal which is not properly completed may result in a claim for damages of false imprisonment and assault and battery.

See Appendix 4 section 1.2 for directions on completing the Form 6.

5.4 Rights Notification on Renewal

Section 34 of the Act requires the director (or a designate) to give the patient rights advice (see section 7.0 Rights) on renewal of involuntary hospitalization before the new period begins. The patient's nominated near relative (per Form 15) does not have to be informed that a Form 6 has been completed. While it is not a requirement, ongoing communication with family when possible and appropriate is recommended.

6.0 LEAVE

6.1 What is leave?

Section 37 (Leave) of the Act permits only the director or authorized physicians to place an involuntary patient on leave from the hospital. "Leave" means a patient is authorized to be absent from the hospital.

Section 37 states:

> "Subject to section 40* and the regulations, if the director considers that leave would benefit a patient detained in the designated facility, the director may release the patient on leave from the designated facility providing appropriate support exists in the community to meet the conditions of the leave."
>
> [*Section 40 disallows leave to patients transferred from a correctional facility or who may be detained under the Criminal Code.]

Leave should have anticipated therapeutic value for the involuntary patient. It may be used for a variety of reasons such as medical treatment in another hospital, day passes, overnight visits, pre-discharge trial placements in the community, and 'extended' leave.

The Mental Health Regulation differentiates leave based on whether or not it is longer than 14 days. Any leave of 14 days or less does not require a Form 20 (Leave Authorization) to be completed, whereas any leave longer than 14 days does. (see Section 9(2) of the Regulation).

The director, or a physician authorized by the director, must approve both leave longer than 14 days and leave for periods of 14 days or less. These authorizations should be specified in a policy (see sample policy below) of the designated facility or in some other written manner. The details of the leave (e.g., destination, duration, supervision, other terms and conditions, support or emergency arrangements, etc.) should be documented in the patient's health record.

When leave is to be longer than 14 days and a physician and other care providers in the community (not another designated facility) are formally authorized to provide the care, treatment, supervision, control and rights protection of an involuntary patient, this is referred to as 'extended leave'. (Note: the expression 'extended leave' does not appear in the Act or Regulation.)

SAMPLE POLICY FOR DESIGNATED FACILITY

1. *Involuntary patients are eligible for leave on the basis of anticipated therapeutic value.*
2. *The director authorizes physicians of the designated facility to approve leave under Section 37 of the Mental Health Act.*
3. *An order from a director or authorized physician is required to place a patient on leave.*
4. *The hospital continues to have responsibility for the treatment, care, health and safety of a patient while on leave, except extended leave where the responsibility for the patient has been assumed by a community physician.*

In regard to the risk exposure (potential liability) for placing involuntary patients on extended leave, section 16 of the Act provides that a person is not liable for damages as a result of performing functions under the Act (ie: authorizing leave or treating a patient in the community subject to Form 20), while acting in good faith and with reasonable care.

Designated facilities may not prohibit the use of extended leave and should encourage its use in appropriate cases.

6.2 What is Extended Leave?

Extended leave is a type of leave for an involuntary patient from a designated facility that:

- is authorized under section 37 of the *Mental Health Act* and implemented consistent with section 9 of the Regulation;
- requires the approval of the director of the designated facility or a physician authorized by the director on a Form 20 (Leave Authorization);

- is for more than 14 days; and
- usually involves assigning the authorities and obligations of the director under the *Mental Health Act* to professional health care providers not on the staff of the designated facility.

When Form 20 is completed and a patient is placed on extended leave, Form 20 (Leave Authorization) does not need to be reviewed or revised unless there are changes to the conditions of leave. It is necessary, however, to complete a new Form 6 (Renewal Certificate) within the required time periods as if the patient were still in hospital.

Extended leave is intended to be a client-centred therapeutic intervention used to:

- ensure an involuntary patient has the earliest possible opportunity for release from hospital, and
- optimize an involuntary patient's potential for community living through the provision of support for treatment compliance once out of hospital. (Note: As repeated episodes of acute psychiatric illness can harm a patient's recovery, extended leave can offer the patient a better prognosis.)

Extended leave should not be used to reduce an involuntary patient's length of stay in hospital when the patient is still in need of inpatient care.

As a general guideline, extended leave may be considered suitable for an involuntary patient who:

- will, as a result of his/her psychiatric status, meet the criteria for involuntary hospitalization (section 22(3)) at the time of release and throughout extended leave, and
- has a psychiatric diagnosis with a high level of severity; and
- requires reinforcement of/support for compliance once out of hospital, and
- has a history of involuntary hospitalizations; and/or
- has had repeated relapses as a result of repeated non-compliance with medication and other care arrangements; and/or
- exhibits non-compliance which is intentional and/or is due to lack of insight into the nature and severity of his/her illness; and/or
- exhibits behaviour (when non-compliant) which places the patient or others at risk of harm.

PRE-REQUISITES FOR EXTENDED LEAVE

Extended leave should be considered an option for an involuntary patient only when the patient:

- can be actively monitored for compliance with treatment in the community;
- will be provided appropriate services in the community;
- will be permitted reasonable choice as to geographic location of residence; and
- is capable of being informed of the meaning of extended leave and the conditions of leave.

PLANNING EXTENDED LEAVE

In planning for the successful release of an involuntary patient on extended leave, the following steps should be considered.

The attending (hospital) physician and appropriate hospital staff should:

- in consultation with a community physician (in some locations the community physician may be the same physician as the one who treated the patient in hospital) and health authority director of mental health/addictions (or equivalent) or a designate (including a mental health/addictions residential facility), review the feasibility of extended leave for a patient including discussion with the patient;
- provide clinical documentation to the designated community physician and health authority director of mental health/addictions (or equivalent) or a designate to permit an informed decision about accepting the patient on extended leave;
- ensure direct communication between the attending (hospital) physician and the community physician where applicable;
- in consultation with the community physician and health authority director of mental health/addictions (or equivalent) or a designate (including a residential facility), develop conditions of leave and a comprehensive plan. Because plans should be least restrictive, the compulsory conditions and restrictions should be as few as is reasonable.

- determine the designated facility or facilities to which the patient will be 'recalled' if and when necessary. It may be advisable to establish an agreement with that facility about the accessibility of inpatient services should recall become necessary. (Note: This is particularly applicable if the patient is to be released to another community or health authority.)
- complete a Form 20 (Leave Authorization) (see Appendix 6 for instructions on completing the Form 20);
- ask the patient to sign the Form 20, where possible, to confirm that the leave conditions have been explained to her/him (Note: the patient's signature is not required to authorize leave);
- provide the (draft) Form 20 to the community physician and health authority director of mental health/addictions (or equivalent) or a designate. To ensure the community physician accepting responsibility for the care of the patient once in the community is aware of the conditions of leave and is prepared to accept the patient, it is advisable for the community physician to sign the Form 20 next to his/her name; (Note: the Form 20 does not include a requirement or space for the community physician to sign indicating acceptance of the patient.)
- once the signed Form 20 is returned from the community physician, the director or attending (hospital) physician (if authorized by the director) signs the Form 20 (Note: unless unavoidable, a hospital physician should not sign a Form 20 where s/he is to be the receiving community physician.)

INITIATING EXTENDED LEAVE

Once the Form 20 has been completed, the attending hospital physician should write an order in the patient's health record such as 'Release on extended leave'.

A copy of Form 20 should be provided to the patient.

Inform the patient where applicable of:

- the name and location of the community physician
- the name of the community mental health caseworker
- the location of the Mental Health Centre and appointment times, etc.
- the location of the facility or residence where the patient will be placed.

Once released from hospital, the full authority of the patient's involuntary status continues, as per section 39(1) of the Act. A local form may be developed for use in cases where it is appropriate to notify a near relative regarding the release of a patient on extended leave.

Section 39 (1) states:

"The release of a patient on leave...under section 37...does not, of itself, impair the authority for the patient's detention under this Act and that authority may be continued, according to the same procedures and to the same extent, as if the patient were detained in a designated facility."

This means that all authorities and obligations of the director of the designated facility releasing the patient must be maintained in the community. These responsibilities include:

- notification of Review Panel – 12 months (Act s. 25(1.1))
- authorizing treatment – signing Form 5 (Act s.31)
- requests for second medical opinions (Act s.31; Reg. s. 8)
- rights advice (Act. s. 34)
- nomination/notification of near relative (Act s.34.2(2) & (4))
- authorizing leave – signing Form 20 (Act s.37; Reg. s.9(1))
- transfer to another hospital under recall provisions (Act s.39(2)(b) & 35(1) & (3); Reg. s.9(5))
- issuing a warrant – Form 21 (Act s.41(1))

See Table 2 in Appendix 6 for a list of forms and how they apply.

The director of the designated facility may retain the noted authorities and obligations, however, it is generally accepted practice for the community care providers to assume these responsibilities. In order for this to occur legally, the director must provide written authorization to an individual in the community involved in the care of the patient on extended leave.

As some administrative infrastructure is required to properly implement these important provisions of the Act, it is recommended that the health authority director of mental health/addictions (or equivalent) or a designate (e.g., Mental Health Centre director) be assigned the authorities of the director of the designated facility from which the patient was released.

This assignment can be achieved by use of the suggested form "Extended Leave – Assignment of Additional Director's Functions" (see sample in Appendix 17). This form should be completed when planning extended leave and provided to the community care providers along with other documentation prior to or upon release of the patient.

SUPPORTING A PATIENT ON EXTENDED LEAVE

Once on extended leave and residing in the community, an involuntary patient will require from the community care providers ongoing treatment, care, supervision and support.

Extended leave may continue as long as the involuntary status of the patient is maintained through correct renewal procedures, or until the patient is recalled to hospital, or discharged.

A new Form 20 is required only if conditions of leave change, a different community physician assumes the care of the patient, or a patient is recalled to hospital and discharged again on extended leave. A new Form 20 would not be required when another physician temporarily covers for the patient's regular physician.

Specifically, the care providers should ensure the following aspects of care and support are addressed on an ongoing basis:

Therapeutic Intervention/Clinical Support

- initially, the community physician and other community care providers should carefully consider the treatment recommendations of the hospital physician/team;

Renewing Involuntary Status

- track, bring forward, complete on time and file Form 6 (Renewal Certificate) on the patient's health record (see section 5.0 Renewal of Involuntary Status);
- if requested by the releasing hospital, provide a copy of the completed Form 6 to the hospital.

(Note: if a Renewal Certificate is not completed prior to the end of the current period, the patient ceases to be involuntary and the extended leave is nullified forthwith. Involuntary status (and extended leave) cannot be (re)started in the community. The person must be admitted to a designated facility under section 22 and then released on leave under section 37.)

Valid Consent to Psychiatric Treatment

- ensure that a valid Form 5 (Consent To Treatment) is on the patient's health record.

Rights Advice

- explain the patient's rights under the Act and provide a copy of Form 13 (Notification to Involuntary Patient of Rights under the *Mental Health Act*) to a patient each time a Form 6 is completed;
- file a copy of the Form 13 on the patient's health record;
- provide copies of Form 15 (Nomination of Near Relative) to a patient if requested and file a completed copy on the patient's health record.

Second Medical Opinion

- If requested, make available copies of Form 11 (Request for Second Medical Opinion) to patients who are treated pursuant to consent given by the director or designate (see section 7.0 Rights);
- receive completed Form 11 from patients and make arrangements for the 2nd opinion as soon as reasonably practicable;
- ensure the completed Form 12 (Medical Report) is received from the physician giving the second medical opinion no later than 2 working days after the examination;
- review and, if appropriate, act upon the Form 12 including providing a copy to the patient;
- arrange for a new Form 5 (Consent for Treatment) to be signed if there is (to be) a change in treatment. (Note: Physician Billing Fee Codes for Second Medical Opinions under the *Mental Health Act* are:
    = Code 96301 Specialist – First Assessment
    = Code 96302 Specialist – Follow-up Assessment (same patient, same treatment, different renewal period)
    = Code 96201 GP – First and Follow-up assessments)

Review Panels

- consistent with section 25(1.1) of the Act, track a patient's Review Panel applications and notify the board chair if a hearing has not been requested or held within each 12 consecutive month period on extended leave (see section 7.0 Rights);

- develop and maintain a health record for submission to Review Panel hearings;
- prepare any additional reports for Review Panels;
- notify the nominated 'near relative' when a Review Panel is applied for (unless it was the near relative that applied on behalf of the patient);

Changing Leave Arrangements

If a patient changes community physician or community mental health care providers, or original conditions of leave change while on extended leave:

- ensure the new community physician and the health authority director of mental health/addictions (or equivalent) or a designate are involved in the planning for the change;
- complete a new Form 20 and have it signed by the individual authorized on the 'Extended Leave - Assignment of Additional Director's Functions' form (a copy of Form 20 is in Appendix 16);
- provide the Form 20 to the patient and where possible have the patient sign the Form 20;
- if changing community mental health care providers, request the releasing hospital to complete a new optional Form S6 Extended Leave - Assignment of Additional Director's Function, with the name of the appropriate health authority director of mental health/addictions (or equivalent) or a designate (a copy of optional Form S6 is in Appendix 17);
- provide a copy of the Form 20 to the new physician, community mental health care providers, the releasing hospital and the patient;

Unauthorized Absence

The Act (section 41) does not clarify whether it is possible for an involuntary patient on extended leave to be considered on unauthorized absence if the patient is missing or unaccounted for, unless the patient breaches a condition of the leave (e.g. the patient misses an appointment which is a condition of the leave). In the context of extended leave, the Form 21 (Director's Warrant – Apprehension of Patient) as described in section 41 is intended to be used only to recall a patient to hospital.

A Form 21 must not be used to have an absent or missing involuntary patient returned to a residential (community) facility but only to a designated facility.

If an involuntary patient leaves the province, the community care providers may choose to discharge the patient, or leave the involuntary status intact pending the patient's return or expiry of the current Renewal Certificate whichever occurs sooner. A new Renewal Certificate cannot be completed unless a physician examined the patient within the month prior to expiry of the current Renewal Certificate.

Discharge

The community physician identified on the Form 20 or the hospital physician may discharge an involuntary patient from involuntary status and therefore from extended leave at any time.

Once the patient has been discharged, the 'near relative' nominated by the patient must be notified using Form 17 (Notification to Near Relative – Discharge of Involuntary Patient). A copy of Form 17 is in Appendix 16.

If requested by the patient, a Form 19 (Certificate of Discharge) may be completed by the director or designated physician. A copy of Form 19 is in Appendix 16.

If the patient is discharged by the community physician, the releasing hospital should be notified of the discharge so the hospital can document that the patient is no longer on leave.

RECALL TO HOSPITAL

An involuntary patient on extended leave may be returned to a designated facility for inpatient treatment under certain conditions. The patient may be returned to the designated facility which released the patient or (on transfer) to another designated facility. The process of returning an involuntary patient from extended leave to a designated facility is referred to as 'recall'.

Section 39 (2) of the Act states:

> *"Subject to the regulations, a patient who is on leave...may, if the conditions of the patient's leave or transfer are not being met, be recalled (a) to the designated facility from which the patient was released or transferred, or (b) to another designated facility, if the transfer to that facility is authorized and agreed to under section 35."*

Section 9(5) of the Regulation provides criteria for the recall of an involuntary patient to hospital.

(Note: if while on extended leave a patient is taken to a hospital for routine administration of a prescribed psychiatric medication, this does not constitute a 'recall').

Section 9(5) of the Regulation states:

> *A patient may not be recalled unless a director … or a physician authorized by the Director is satisfied from an examination of the patient, personal observations or information received that the patient*
>
> *a) requires treatment in a designated facility*
>
> *b) requires care, supervision and control in a designated facility to prevent the patient's substantial mental or physical deterioration or for the protection of the patient or the protection of others, and*
>
> *c) will not voluntarily return to a designated facility.*

If a patient is to be recalled, the following individuals may issue the Form 21 (*Director's Warrant – Apprehension of Patient*):

- the director of the designated facility
- the attending physician in the designated facility (only if authorized by the director)
- the community physician identified on the Form 20
- the health authority director of mental health/addictions or a designate authorized on the "Extended Leave – Assignment of Director's Functions" form. (Appendix 17)

Recall and the Renewal of Involuntary Status

It is very important for the designated facility that is admitting a recalled involuntary patient to know whether or not the patient has been on extended leave for 6 or more consecutive months. The community care providers should communicate this information to the designated facility.

6 or more months on extended leave

If the extended leave of the patient has lasted 6 or more consecutive months, the Act requires the accepting designated facility to deem the patient as being admitted under section 22(1).

In other words, the date of recall is treated as if it were the date of a new involuntary admission to hospital. All subsequent Renewal Certificates and calculations of hearing entitlement are then determined as if the recall date were a new involuntary admission date (e.g., 1 month, 1 month, 3 months, 6 months, etc.).

New Form 4's (Medical Certificate – Involuntary Admission) are not required to 'admit' a recalled patient under these circumstances. However, the patient must be provided with rights advice (Form 13).

Fewer than 6 months on extended leave

If an involuntary patient is recalled during the first 6 months of leave, the involuntary status of the patient continues in hospital without interruption. This means the Renewal Certificate in effect at the time of recall continues in effect until it expires, whereupon a Renewal Certificate for the next normally occurring period is completed (in the hospital).

Possible Complications with Recall

The following scenarios may arise where an involuntary patient may interact with hospitals and/or designated facilities other than through a coordinated recall arrangement:

- the patient presents at an Emergency Room (ER) without the knowledge of the community physician or community mental health resources, and the hospital physicians complete Form 4's and admit the patient under section 22;
- the community care providers have initiated recall but have not informed the designated facility to which the patient is to be admitted and either:
    - the hospital physicians complete new Form 4's and admit the patient under section 22, or
    - the hospital physicians do not admit the patient at all.

Under these circumstances the Renewal Certificate remains valid and the extended leave is not nullified. The Form 4s should be disregarded.

Whenever possible, steps should be taken to avoid new section 22 admissions (new Form 4's) of involuntary patients on extended leave. ER staff should attempt to contact the community physician, community mental health resources and the psychiatric inpatient unit in regard to recall/re-admission.

Returning to Extended Leave after Recall

After an involuntary patient has been recalled from extended leave, admitted to a designated facility and treated as an inpatient, it may be appropriate to again consider releasing the patient on extended leave. Regardless of the period of time the patient has been in hospital after recall, the (new) release on extended leave requires a new authorization (Form 20) and is not considered a continuation of the previous extended leave authorization.

> (Note: if a patient is taken to a hospital for routine administration of a prescribed psychiatric medication while on extended leave, this does not constitute a 'recall').

QUESTION ON EXTENDED LEAVE

36. Can methods other than Form 21 warrants be used to recall a patient on extended leave?

Form 21 is the best method because it derives its authority from the Act. Other methods are more vulnerable to court action.

7.0 RIGHTS

While the *Mental Health Act* authorizes involuntary admission and treatment of people with mental disorders, there is a need to ensure these provisions are appropriately used.

Patients' rights are addressed in the *Mental Health Act* through:

- Rights information (patient and relative)
- Review Panel hearings
- Applications to the court
- Second medical opinions

7.1 Rights Information

INFORMATION STAFF MUST GIVE PATIENTS

The designated facility must provide information to involuntary patients about their rights under the *Mental Health Act*. This applies to newly admitted patients, transfers from another designated facility (section 35), changes from voluntary status to involuntary status, and when renewal certificates are completed.

Children and youth under age 16 admitted by a parent or guardian as voluntary patients (section 20 (1) (a) (ii)) must also be provided with rights information.

A staff member from a designated facility (or its agent) must verbally inform the person and provide written notification of the following rights promptly upon admission:

- the hospital's name and location;
- the right to be informed promptly of the reasons why the person was admitted and is being kept in hospital;
- the right to contact, retain and instruct a lawyer or advocate without delay;
- the right to regular reviews of detention by a physician (renewal certificates);
- the right to apply for a Review Panel hearing;
- the right to have the validity of the detention determined by a court (by way of a procedure known as *habeas corpus*, where the court is asked to determine whether there is legal authority for the detention);
- the right to apply to the court for discharge; and,
- the right to a second medical opinion on the appropriateness of treatment.

Rights information requirements, as they apply to involuntary patients, are set out in section 34 of the Act. For patients under 16, the requirements are in section 34.1.

RIGHTS INFORMATION FORMAT

Form 13, Notification to Involuntary Patients of Rights Under the *Mental Health Act*, is used by hospital staff or a rights advisor to provide the information required by section 34 of the Act to all involuntary patients. Form 14, Notification to Patient Under Age 16, Admitted by a Parent or Guardian, of Rights Under the *Mental Health Act*, is used for voluntary patients under age 16. Copies of Form 13 and Form 14 are in Appendix 16.

- Patients must be given a copy of Form 13 or Form 14 and have the information contained in the form explained to them. Patients should be encouraged to ask questions.
- The form must be signed by the patient and a copy retained on the patient's chart. If the patient refuses to sign a staff member should make a note of this on the copy of the form.
- If the person does not, or appears not to, understand the rights information upon admission, it must be repeated as soon as the person is capable of understanding it and another copy of Form 13 or 14 provided.
- The facility should provide assistance for people who may not understand the rights information because English is their second language or because of other communication challenges, such as a hearing deficiency.

NOTICE BOARD FOR PATIENTS

Section 5 of the Regulation requires that a copy of the Act, sections 1 to 10 of the Mental Health Regulation and forms 13 and 14 be posted in a conspicuous place where they can be easily seen and accessed by patients.

WHEN RIGHTS INFORMATION MUST BE GIVEN

New Admissions

Patients admitted to a psychiatric facility on a first certificate (sections 22 and 28) must be given the rights information outlined above promptly on admission. Children and youth under age 16 admitted on the authority of a parent or guardian (section 20 (1) (a) (ii)) must be similarly informed.

Transfers (Sections 29, 35 and 42)

An involuntary patient transferred to another facility must be given the rights information by the facility to which they are transferred. This applies even though the person was given the rights information when admitted to the initial facility. The information must be provided "on admission" to the new facility.

Renewal Certificates (Section 24)

Patients must also be provided with rights information whenever a Renewal Certificate is completed. The information should be provided prior to the new certificate taking effect.

Change from Voluntary to Involuntary Status

Patients changed from voluntary to involuntary status are considered new admissions, as above.

Advice to Near Relative

- Section 34.2 of the Act requires that, immediately after the involuntary admission of a patient under section 22 or the voluntary admission of a child or youth under age 16 (section 20 (1) (a) (ii)), the director send a written notice (Form 16, Notification to Near Relative (Admission of Involuntary Patient or Patient Under Age 16)) to a near relative. Form 16 explains the patient's right to Renewal Certificate examinations, to a second medical opinion on the appropriateness of the patient's treatment, to apply for a Review Panel hearing and to apply to the court under section 33 (2). These applications may be made by the patient, a relative or any other person on behalf of the patient.
- A record must be kept by the facility to document that the near relative was provided with Form 16, Notification to Near Relative (Admission of Involuntary Patient or Patient Under Age 16). If there is no information on the identity of a near relative of the patient, Form 16 is sent to the Public Guardian and Trustee. A copy of Form 16 is in Appendix 16.
- When a patient applies for a Review Panel hearing, the facility must send a near relative a completed Form 18, Notification to Near Relative (Request or Order for a Review Panel Hearing). A copy of Form 18 is in Appendix 16.
- When a patient is discharged, the facility must send the near relative a completed Form 17, Notification to Near Relative (Discharge of Involuntary Patient). A copy of Form 17 is in Appendix 16.
- The Act now defines near relative as a "grandfather, grandmother, father, mother, son, daughter, husband, wife, brother, sister, half brother or half sister, friend, caregiver or companion designated by the patient and includes the legal guardian of a minor and a committee having custody of the person of a patient under the *Patients Property Act*." While not mentioned in the Act, common law spouse and same sex partner are included as near relatives.
- The notification may be sent to any near relative. Form 15, Nomination of Near Relative, must be used for the patient to nominate the near relative to be notified.

- If a patient is incapable of making a selection, the director or a designate must make the selection.
- In addition to the person selected by the patient, the director may, if the director considers it to be in the best interests of the patient or the safety of others, send the notice to any other near relative.

QUESTION ABOUT RIGHTS INFORMATION

37. What is habeas corpus?

Habeas corpus is a procedure to bring before the court the question of whether a person is lawfully detained. Its application in a designated facility would usually be based on an alleged error or a defect in the completion of medical certificates. *Habeas corpus* is rarely used under the *Mental Health Act*.

7.2 Review Panels

An involuntary patient who wishes to become a voluntary patient or be discharged from hospital should request from the attending physician voluntary status or discharge. If the physician agrees, this is the quickest and most direct way to end the involuntary status. If the physician refuses, an application form for a Review Panel hearing may be obtained from hospital staff (Form 7, Application for Review Panel Hearing). A copy of Form 7 is in Appendix 16.

NOTIFICATION TO NEAR RELATIVE OF A REVIEW PANEL APPLICATION

The designated facility must inform a near relative using Form 18, Notification to Near Relative (Request or Order for a Review Panel Hearing), whenever a patient or someone other than the near relative, applies for a Review Panel hearing. This is to allow someone who is interested in the patient's welfare to present evidence for continued hospitalization or discharge. A copy of Form 18 is in Appendix 16.

A REVIEW PANEL'S FUNCTION

A Review Panel is a group of three or more people who decide, after a hearing, whether a patient should be discharged from involuntary status. The patient may be an involuntary inpatient, an involuntary patient on extended leave, or a voluntary patient under 16 years of age.

REVIEW PANEL MEMBERS

A Review Panel consists of a number of people appointed from among the members of a board established by the Minister of Health and includes a medical practitioner, a lawyer and a person who is not a medical practitioner or a lawyer. Normally, the lawyer member is designated to chair the Review Panel hearing. This arrangement strengthens the independence of Review Panels by departing from the former method of panel member selection by which several of the Review Panel members were nominated by the hospital and patients.

ADVOCACY

A patient may be represented at the hearing by an advocate or lawyer. An advocate can be a friend or anyone chosen by the patient to speak on their behalf. The Mental Health Law Program of the Community Legal Assistance Society (CLAS) provides patients with information and assistance regarding Review Panels. The Mental Health Law Program can be contacted at (604) 685-3425 or toll free at 1 888 685-6222.

QUESTIONS ABOUT REVIEW PANELS

38. What are the qualifications of Review Panel chairs?

The chairs have knowledge of the law, the Review Panel process and the concerns of people with mental disorders. Normally they are lawyers.

39. Who may apply for a Review Panel hearing?

When the second Medical Certificate is completed, an involuntary patient, or someone on their behalf, may apply for a Review Panel hearing. Children and youth under age 16 admitted as voluntary patients, by a parent or guardian, may also apply.

40. How can a patient obtain a Review Panel hearing?

A patient, or anyone on the patient's behalf (section 25 (1)), can apply for a hearing by completing the Application for Review Panel Hearing (Form 7, Appendix 16), available at the designated facility. The completed form is given to the nurse in charge of the ward. This person must immediately give (fax) the form to the Review Panel office, fax: (604) 524-7216, phone: (604) 524-7220/ 7219.

41. *Can children apply for a Review Panel hearing?*

Yes. People who can apply to a Review Panel include children and youth under age 16 who have been admitted to hospital under the *Mental Health Act* as voluntary patients on the request of a parent or guardian. Children and youth who are involuntary patients can also apply to the Review Panel.

42. *If a patient is transferred from one hospital to another after applying for a Review Panel hearing, must the patient wait longer for a hearing than the time period specified in the Act?*

No. Regardless of transfers between hospitals, the patient is entitled to have the hearing occur within the 14-day period or the 28 day period specified in sections 6(5) and 6(6) of the Regulation.

43. *How long does it take to get a Review Panel hearing and decision after a patient applies for a hearing?*

Unless adjourned at the patient's request, the hearing must be held as follows:

- within 14 days after the application is received by the Review Panel chair for a first period of detention (one month) and a second period of detention (one further month);
- within 28 days after the application is received by the Review Panel chair for a third period of detention (three further months) and a fourth or subsequent periods (six further months) provided that 90 days have elapsed since the conclusion of any previous hearing.

Following a hearing, the decision is usually immediate. However, the Review Panel may take up to 48 hours to reach a decision.

44. *How often can an involuntary patient apply for a Review Panel hearing?*

A patient is entitled to apply after the second Medical Certificate is completed and following each renewal of the certificates. (See section 5.1).

During the six-month renewal periods, when it is in the best interests of the patient or where new information becomes available (section 25 (3)), the Review Panel chair may shorten the time between applications (see also Appendix 7).

THE REVIEW PANEL PURPOSE, PROCESS AND AUTHORITY

A Review Panel makes a decision on only one issue — whether the patient continues to meet the criteria to remain as an involuntary patient. The Review Panel considers only evidence, including hospital records, presented at the hearing. The criteria used by the Review Panel are those specified in section 25(2). The criteria are described in Appendix 7, section 11.4.

Unless a majority of the Review Panel members are satisfied by the evidence that a patient meets the criteria for involuntary status as provided in the Act, the Review Panel must order that the person be discharged from involuntary patient status. Where appropriate, the patient may request admission as a voluntary patient.

QUESTIONS ABOUT THE REVIEW PANEL PURPOSE, PROCESS AND AUTHORITY

45. Who presents evidence for the patient at a Review Panel hearing?

The patient may present their own case or be represented by a lawyer or an advocate.

If desired, it is the patient's responsibility to arrange for a lawyer or an advocate. Hospitals may have information about lawyers and advocates. The Mental Health Program of the Community Legal Assistance Society (CLAS) provides patients with information and assistance regarding Review Panels. The Mental Health Law Program can be contacted at (604) 685-3425 or toll free at 1 888 685-6222.

46. What happens if someone has important information the Review Panel needs to know to make a decision on whether a patient is kept in hospital or discharged?

In this case, the hospital may be contacted and the information provided to the attending physician. The person providing the information may be asked to attend the Review Panel hearing. Enquiries may be made to the Review Panel Office at (604) 524-7220/7219.

47. *Can Review Panel decisions be appealed?*

Where there is reason to believe the Review Panel incorrectly applied the law or otherwise made a decision that was not within its statutory jurisdiction, it is possible to apply to the courts for a judicial review. A separate application for discharge of the patient from hospital may be made to the court under section 33 of the Act. If a judicial review or an application under Section 33 is being considered, a lawyer should be consulted. The legal costs of patients are not covered by the Government. Complaints about Review Panel issues can be made to the Board Chair (phone: (604) 524-7220/7219).

48. *When can a physician recertify a patient who a Review Panel has found should not continue to be detained?*

This question was considered in a court case (*Greggor v. Riverview Hospital*) in which a patient was recertified three days after a Review Panel found that he should not continue to be detained and before he had left the hospital. The court noted that immediate re-admission seemed unusual. Nevertheless, the judge found there is nothing prohibiting re-admission for any particular period of time after a Review Panel has made its findings (just as there is nothing in the Act prohibiting re-admission of a patient for any particular period of time after discharge by the hospital itself). However, it should be stressed that there would have to be unusual circumstances for a physician to re-certify a patient such a short time after a Review Panel decision. Those circumstances would have to be carefully documented.

49. *Where can someone get more information on Review Panels?*

Hospital staff will have information about Review Panel hearings.

The Review Panel office in Coquitlam may be contacted by phone at (604) 524-7220/7219/7107. The Mental Health Law Program of the Community Legal Assistance Society (CLAS) can be contacted at (604) 685-3425 or toll free at 1 888 685-6222. Legal aid societies are listed in the local telephone directories.

A more detailed description of the Review Panel process can be found in Appendix 7.

7.3 Applications to the Court

A patient, a near relative or anyone who believes the patient should not be admitted to or kept in hospital may apply to the Supreme Court of British Columbia under section 33 (2) of the Act.

While it is possible to go to court without a lawyer, it is advisable to have one. Applications to the court are separate from applications to the Review Panel.

Applications to the Supreme Court of British Columbia may also be made by way of judicial review (*habeas corpus*). This is a rarely used procedure to bring before the court the question of whether a person is lawfully detained. The procedure is usually reserved for situations when a Medical Certificate is considered to be in error.

A lawyer should be consulted if this option is being considered.

QUESTION ABOUT APPLICATIONS TO THE COURT

50. Are there any advantages to a Review Panel compared to a court?

Review Panel procedures are less formal and the hearing and decision usually occur sooner than a court proceeding. Review Panels are specialized in applying the criteria under the *Mental Health Act* to determine whether someone should continue as an involuntary patient. Unlike applying to the courts, there is no charge for a Review Panel hearing.

OBTAINING A LAWYER

Patients wishing legal advice or representation are responsible for making the arrangements. The designated facility can provide information about contacting a lawyer.

Patients may also contact the local offices of the Legal Services Society (listed in the telephone directory).

QUESTIONS ON OTHER RIGHTS

51. Does an involuntary patient have a right to keep personal possessions, have private communications or complain about hospital services?

Although these issues are not addressed in the Act, they are usually set out in hospital policy. For example, Riverview Hospital has a Patients' Charter of Rights that addresses such concerns.

52. Does a patient have the right to see their medical file? Can relatives obtain information about a patient in hospital?

The *Mental Health Act* does not address these issues. The *Freedom of Information and Protection of Privacy Act* allows patients access to their medical file information unless:

- to do so "could reasonably be expected to result in immediate and grave harm to the (patient's) safety or mental or physical health";
- to do so "could reasonably be expected to threaten anyone else's safety or mental or physical health or interfere with public safety".

Unless the third party gives permission, third party information must be deleted from the copy of the file the patient is allowed to see.

The patient's consent is normally required to release medical information to relatives or others. However, there are exceptions. For example, information may be released if the purpose for the release is the same as or consistent with the purpose for which the information was collected.

This might enable a person involved in a patient's care to obtain the information on a "need to know" basis to provide care. Compelling circumstances that affect someone's health or safety may also be reason enough to permit release of the information. (See Appendix 13).

7.4 Second Medical Opinion on Appropriateness of the Patient's Treatment

A patient, or someone on the patient's behalf, can request a second medical opinion on the appropriateness of the patient's treatment. Section 31 of the Act and Regulation 8 address this issue.

Requests can be made in the initial one month certificate period and once every renewal period (in the first month, second month, next three-month period and every six months thereafter). Requests are made on Form 11, Request for Second Medical Opinion (see Appendix 16). The form enables the patient, or someone on the patient's behalf, to request a specific physician. Otherwise, the director must do so. The second medical examination must be completed as soon as is reasonably possible. See also sections 1.4 and 1.5 in Appendix 4.

The facility is not required to reimburse a patient, or someone acting on behalf of a patient, for extra expenses incurred in connection with obtaining the second medical opinion. The physician's fee for medical examination is covered by the provincial government.

Ordinarily, there would be no other expenses, such as travel, because the physician would be located within reasonable distance of the facility. An exception would be if the requested physician had to travel by air to provide the opinion. In this case, reasonable costs not otherwise reimbursed are the responsibility of the patient, not the facility.

If it is possible a patient may incur costs for the second medical opinion, these costs should be clearly spelled out and payment arrangements made prior to the examination occurring.

The physician does not need medical staff privileges at the designated facility. The designated facility must provide reasonable access to the facility, the patient, records and clinicians involved with the patient.

The examination should include an interview with the patient and review of the patient's file and other available information. It may include discussion with people involved in the patient's treatment. If the patient refuses to be interviewed, an opinion can still be rendered on the basis of other available information.

The physician's opinion on the appropriateness of the treatment must be recorded on Form 12, Medical Report (Second Medical Opinion) in Appendix 16. The physician's opinion may include recommendations. An additional note on the patient's chart (health record) is not required by the Act, but may be helpful. A copy of Form 12 is in Appendix 16.

The completed Form 12 must be delivered to the director within 48 hours of the examination. If a recommendation is made to change the treatment, the director may authorize changes to the current treatment. If the director is not a physician, the director should authorize a physician to perform this function.

8.0 TRANSFERS

Under section 35 of the Act, if the transfer is considered beneficial to the involuntary patient, a patient may be transferred to another designated facility.

- On arriving at the new facility, the patient must be informed of their rights.
- The validity of the certificate continues, using the dates applicable to the previous designated facility.
- Time limits for processing Review Panel applications made while in the previous facility apply to the new facility.
- The original certificates should remain at the transferring facility. Photocopies should be made and sent to the receiving facility, with the annotation "certified to be a true copy of the original", and signed or initialed by the director or delegate, who should state their position. Forms may also be faxed. Faxed forms are legally valid. An annotation that the form is a "true copy" is not required.

9.0 DISCHARGE

When an involuntary patient is discharged from involuntary status, the designated facility must immediately inform a near relative of the discharge, using Form 17. A copy of Form 17 is in Appendix 16. Notice of the discharge may be sent to the near relative before the planned discharge date. Patients, relatives and others involved in the patient's care in the community should be included in discharge planning and informed of the discharge date. This will provide support for vulnerable persons upon discharge and is important to continuity of care. The notice is sent to the near relative on the basis of Form 15, completed by the patient. Where the director considers it in the best interests of the patient's treatment, the protection of the patient's rights or protection of another, a notice should also be sent to another near relative. Form 17 states that the term "near relative" includes: wife, husband, mother, father, grandmother, grandfather, daughter, son, sister, brother, half sister, half brother, friend, caregiver, companion designated by the patient, committee of person, legal guardian, common law spouse, and same sex partner.

When the director or a designate indicates in writing that the patient is discharged from involuntary status, any Medical Certificate or warrant providing authority for hospitalization is cancelled (Section 36(2)).

When voluntary patients under the *Mental Health Act* are discharged there is no requirement that relatives be notified. Good mental health practice, however, would indicate that relatives should be notified in situations where it would be beneficial to the care of the patient.

The hospitals are not obligated to pay for transportation of patients to their homes upon discharge. Patients are responsible to arrange and pay for their own transportation.

10.0 UNAUTHORIZED ABSENCE

When an involuntary patient leaves the hospital without permission (escapes), the following steps can be taken to return the patient to the hospital:

- Within 48 hours of the unauthorized absence, the person may be apprehended and returned to the designated facility without a warrant.
- Up to 60 days following the unauthorized leave, the director may issue a Form 21, Director's Warrant (Apprehension of Patient). This requires a police officer to apprehend and return the person to the designated facility (section 41 (2)). A copy of Form 21 is in Appendix 16. (See also Appendix 5, Section 6.3.)
- After 60 days the patient is considered to have been discharged, except if the patient (a) left the facility while charged with an offence, (b) is liable to imprisonment or (c) is considered by the director to be dangerous to self or others. Under these circumstances the director may issue a Form 21 warrant if one has not already been issued.

If a patient is on unauthorized absence and a warrant has been issued, police should be notified if the patient is subsequently discharged from involuntary status.

When a child or youth under 16, who is admitted as a voluntary patient at the request of a parent or guardian under section 20 (1) (a) (ii) of the Act, leaves the facility without permission, the facility has two options:

(i) If there is an emergency, the police can be asked to apprehend the child or youth under section 28 (1) of the *Mental Health Act*.

(ii) The patient may also be returned to hospital if a physician is able to complete a Medical Certificate based on the last examination of the child or youth in hospital. If the examination was sufficient to enable the physician to conclude that the person meets the criteria for involuntary admission, a certificate may be signed.

It should be remembered that the child or youth would have to be admitted within 14 days from the last time the physician examined them.

The Medical Certificate provides authority for the police, paramedics or others to apprehend and transport the child or youth to the designated hospital, admitting the person for up to 48 hours (section 22).

The child or youth can then be continued as an involuntary patient by completion of a second Medical Certificate, changed to voluntary status or discharged, as long as this occurs within the 48-hour period.

If the patient has not been certified as an involuntary patient, the facility has no authority to require the child or youth to be returned.

The parent or guardian who requested the admission may contact the police and ask for the patient's return to the facility.

Guide to the *MENTAL HEALTH ACT*

APPENDICES

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COLUMBIA
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APPENDIX 1

HOSPITALS AND PROVINCIAL MENTAL HEALTH FACILITIES THAT CAN ADMIT INVOLUNTARY PATIENTS (DESIGNATED FACILITIES)

1.0 Provincial Mental Health Facilities

The following facilities are designated as Provincial mental health facilities under section 3 (1) of the *Mental Health Act:*

Forensic Psychiatric Hospital (Institute), Port Coquitlam

Iris House, Prince George

Jack Ledger House, Victoria

Maples Adolescent Treatment Centre, Burnaby

Provincial Assessment Centre for Community Living Services, Burnaby

Riverview Hospital, Port Coquitlam

Seven Oaks Tertiary Mental Health Facility, Victoria

Seven Sisters Residence, Terrace

Youth Forensic Psychiatric Services Inpatient Assessment Unit, Burnaby

2.0 Psychiatric Units

The following hospitals are designated as psychiatric units under section 3 (2) of the *Mental Health Act:*

Burnaby Hospital, Burnaby

British Columbia's Children's Hospital, Vancouver

British Columbia Women's Hospital and Health Centre, Vancouver

Chilliwack General Hospital, Chilliwack

Cowichan District Hospital, Duncan

East Kootenay Regional Hospital, Cranbrook

Dawson Creek and District Hospital, Dawson Creek

Fort St. John General Hospital, Fort St. John

G. F. Strong Centre, Vancouver

2.0 Psychiatric Units continued

Kelowna General Hospital, Kelowna
Kootenay Boundary Regional Hospital, Trail
Langley Memorial Hospital, Langley
Lions Gate Hospital, North Vancouver
Matsqui-Sumas-Abbotsford General Hospital, Abbotsford
Mills Memorial Hospital, Terrace
Mount St. Joseph Hospital, Vancouver
Nanaimo Regional General Hospital, Nanaimo
Peace Arch District Hospital, White Rock
Penticton Regional Hospital, Penticton
Powell River General Hospital, Powell River
Prince George Regional Hospital, Prince George
Prince Rupert Regional Hospital, Prince Rupert
Regional Medical Centre (Pacific), Abbotsford
Ridge Meadows Hospital and Health Care Centre, Maple Ridge
Royal Columbian Hospital, New Westminster
Royal Inland Hospital, Kamloops
Royal Jubilee Hospital, Victoria
St. Joseph's General Hospital, Comox
St. Mary's Hospital, Sechelt
St. Paul's Hospital, Vancouver
Surrey Memorial Hospital, Surrey
The Richmond Hospital, Richmond
UBC Hospital, Vancouver
Vancouver General Hospital, Vancouver
Vernon Jubilee Hospital, Vernon
Victoria General Hospital, Victoria
West Coast General Hospital, Port Alberni

3.0 Observation Units

The following hospitals are designated as observation units under Section 3(2) of the *Mental Health Act*.

Boundary Hospital (Grand Forks)

Fort Nelson General Hospital

Kootenay Lake Hospital (Nelson)

Lady Minto Gulf Islands Hospital (Ganges, Salt Spring Island)

Port McNeill and District Hospital

Wrinch Memorial Hospital (Hazelton)

APPENDIX 2

ASSISTANCE FROM RELATIVES AND OTHERS IN OBTAINING TREATMENT

Someone who appears to have a mental disorder and apparently meets the criteria for involuntary hospital admission under the *Mental Health Act* but refuses to see a physician or to voluntarily go to hospital can still be assisted.

Family members and others are advised to make ongoing efforts to convince the person to see a physician. Sometimes, people who initially refuse assistance can be persuaded to accept medical help. Voluntary admission to hospital is usually a better alternative than involuntary admission.

Families and other concerned people may find the following suggestions helpful in assisting a physician, police officer or judge to determine the need for examination and facility admission.

1.0 Keeping Notes

For a physician to complete a Medical Certificate for involuntary admission, the physician must have evidence the person:

- has symptoms of a mental disorder; and
- needs psychiatric treatment; and
- either (a) is likely to experience substantial mental or physical deterioration if not admitted or (b) needs protection or others need protection; and
- refuses to accept or is incapable of accepting voluntary treatment.

Symptoms or behaviour indicating that substantial deterioration is likely to occur or that protection is needed may not be clearly evident during the physician's examination. To help provide evidence, it can be useful if family members and others keep notes on the person's symptoms and behaviours. The notes can also be helpful if police or a judge's involvement is required.

Your notes should cover incidents or behavior showing indications of:

a) Mental disorder

Indications include symptoms, such as hallucinations (hearing voices or seeing things that are not there), delusions (false beliefs), irrational thinking, disturbed sleeping pattern, withdrawal, over excitement, depression, and difficulty relating to the environment or others.

b) Need for psychiatric treatment

Have medications been used in the past? Symptoms of an illness such as schizophrenia, noted in (a), can also indicate a need for psychiatric treatment.

c) Prevention of substantial mental or physical deterioration

Has there been a previous episode? What were the early signs or symptoms of that episode? Are similar symptoms evident now? Has the person stopped treatment?

d) Need for protection of self or others or potentially harmful behavior or symptoms

Examples include threats, violence, paranoid delusions, command hallucinations, irrational wasting of money, deteriorating pnysical condition, likelihood of or losing a job, dropping out of school, grossly unsanitary living conditions, and suicidal ideas or behaviours.

e) Unwillingness to accept voluntary treatment

An example would be where other people have tried to persuade a person to see a physician.

Include the date, location and names of involved people. Type or write your notes as soon as possible after the incidents. Take the notes with you to the physician.

A copy of the Medical Certificate (Form 4), which physicians complete for an involuntary admission is in Appendix 16.

2.0 Contacting a Physician

Contact the person's physician for advice. The physician may have suggestions about how the person could be persuaded to be examined. It may be possible the person would accept a house visit by a physician. The physician may also know of agencies or people who can help, such as the local mental health centre, a psychiatrist, hospital emergency department or police.

If the person's physician is unavailable, the hospital emergency department may be helpful. A mental health centre may also be able to assist you. Mental health services may be listed in the blue pages of local telephone directories under Health Authorities.

3.0 Contacting a Mental Health Centre

Most communities have mental health centres or services. For information on local mental health services, see section 2.0 above. The mental health centre may also be helpful in contacting the police. The Proposed Patient Apprehension Request form, which is filled out by a health professional and given to police, can usually be obtained through the centre. If the centre cannot help, you may contact the police. The Proposed Patient Apprehension Request form is not a *Mental Health Act* form. It is a request that the police take action and it provides information for the police to consider in deciding whether the person should be taken to hospital, but it does not require them to act. A copy of the proposed form S6 is in Appendix 17.

4.0 Contacting the Police

Police officers have powers under the *Mental Health Act* to apprehend someone who:

a) seems to have a mental disorder; and

b) is acting in a manner likely to endanger the person's own safety or that of others.

The police take the person to a physician (usually at a hospital) for an examination.

If the person meets the criteria used by the physician, the first Medical Certificate can be completed and the person can then be involuntarily admitted for up to 48 hours. To extend the hospitalization period, a second certificate would be required.

A police officer does not have to witness the person doing anything dangerous. The officer has to form the opinion that the individual is apparently a person with a mental disorder and is likely to endanger their own safety or that of others. The *Mental Health Act* states the police officer may act on personal observations or as a result of information from others. This may include information from family members. Again, keeping notes on the person's conduct will be useful.

Where an emergency situation or illegal act occurs, contact the police.

5.0 Contacting a Judge

If a physician or the police will not or cannot assist you, a judge may be able to help. You can apply to a judge using Form 9, Application for Warrant (Apprehension of Person with Apparent Mental Disorder for Purpose of Examination), in Appendix 16. For further details see Appendix 11. A judge (or justice of the peace) can issue a judicial order (Form 10, Warrant (Apprehension of Person with Apparent Mental Disorder) to have the person taken to a designated facility.

Anyone who appears to have good reason to believe that a person apparently has a mental disorder and apparently meets the criteria used by a physician (the person is apparently in need of treatment and care, supervision and control for the prevention of substantial mental or physical deterioration or for the protection of self or others and refuses voluntary treatment) may provide that information to a judge (section 28 (3)). If the judge agrees and also finds that the usual procedures for involuntary admission (such as by a physician) cannot be used without dangerous delay, the judge can order the person taken to a designated facility.

The judge (or justice) completes Form 10 (Appendix 16). This warrant authorizes any police officer to apprehend the person and convey them to a designated facility. The facility may hold the person for examination and treatment for up to 48 hours pending completion of medical certificates by two physicians. The certificates should be completed as soon as is reasonably possible.

There is no fee for affidavits in support of a warrant for apprehension of a person with an apparent mental disorder under the *Mental Health Act*.

6.0 Information Provided to Family and Others

Appendix 13 contains a fact sheet, Releasing Personal Health Information to Third Parties. The fact sheet provides guidance on releasing information to families and others. It is preferable for a person to consent to the release of information. However, where disclosure is required for continuity of care or for compelling reasons, such as if someone's health or safety is at risk, a public body such as a hospital should release necessary personal information without the person's consent.

Where the requirements on release of information are met it is suggested that staff at a designated facility notify family or close friends of a patient regarding important changes in the patient's status. This could include changes between voluntary and involuntary status, placement on extended leave, unauthorized absence from the facility or discharge.

APPENDIX 3

INVOLUNTARY ADMISSION PROCEDURES AND CRITERIA – COMPLETING THE FIRST MEDICAL CERTIFICATE

This appendix reviews involuntary admission requirements and other selected provisions of the *Mental Health Act*. A copy of the Medical Certificate (Form 4) which physicians complete for an involuntary admission is in Appendix 16.

Appendix 17 provides a checklist to ensure the Medical Certificate is accurately completed.

1.0 Involuntary Admission

In order to be involuntarily admitted to a designated facility, a person with mental illness must meet all the criteria for involuntary admission (see section 6.0). Medical examinations for the purpose of involuntary admission must be in accordance with the *Mental Health Act* and principles of good medical practice.

2.0 Involuntary Admission Procedures

A person with mental illness can be involuntarily admitted to a designated facility on the basis of a medical examination and completion of one Medical Certificate (Form 4) by a fully licensed physician. The Medical Certificate based on the medical examination completed within 14 days before admission is valid for up to 48 hours from the time of admission which must be recorded on the patient's clinical record.

3.0 Timing of the Examination and Certificate

Ordinarily, the physician would complete the certificate at the time of the medical examination. However, it is possible to do an examination and to complete a certificate up to 14 days prior to admission. This means, for example, a physician who examined someone 10 days ago, and who receives information later that the person is now suicidal but refuses to see a physician, could write a Medical Certificate today without re-examining the person. In this case, the certificate would have to be acted on within four days -- a maximum of 14 days after the initial examination.

4.0 Language on the Medical Certificate

Specific and plain language descriptions are helpful in summarizing the physician's opinion. Since the forms are legal documents, legible printing or writing is important.

5.0 Forming the Opinion that Involuntary Admission is Required

The decision to complete a Medical Certificate (Form 4) can be based on the examination only, however physicians are expected, as much as possible, to ensure their decisions are based on a variety of sources (such as information from family members or clinical records). Cultural considerations, such as language or customs, may be important in the assessment.

6.0 Completing the Medical Certificate – Form 4

The Medical Certificate (Form 4) includes the four criteria from the *Mental Health Act*. The physician must be of the opinion all four criteria are met. The reasons for the physician's opinion must be summarized on the Medical Certificate.

Criteria for Involuntary Admission:

1 – "Person with a mental disorder"

As defined in the *Mental Health Act*, the person must have a "disorder of the mind that requires [psychiatric] treatment and seriously impairs the person's ability to (a) react appropriately to the person's environment, or (b) to associate with others."

Indications (symptoms) of mental disorder might include hallucinations, delusions, irrational thinking, manic excitement, depression or difficulty relating to others. To qualify, the symptoms must be amenable to psychiatric treatment and severe enough to seriously impair the person's functioning.

2 – Requires psychiatric treatment in or through a designated facility

The physician's opinion that the person requires psychiatric treatment may be based on the diagnosis arising from the medical examination, symptoms or previous treatment.

The physician must also be of the opinion that psychiatric treatment can only be provided in an inpatient setting. For example, the person may have refused voluntary outpatient services.

3 – Requires care, supervision and control in or through a designated facility to "prevent the person's...substantial mental or physical deterioration" OR "for the protection of the person...or the protection of others"

The person must meet criteria in 3.a. or 3.b.

3.a. Prevent the person's substantial mental or physical deterioration

There must be information that without treatment this person will likely deteriorate to the point that they would qualify under 3.b. -- they would need the protection of an inpatient setting. Helpful information for forming this opinion might include a previous history of acute episodes with significant deterioration and current symptoms that suggest similar deterioration is likely to occur.

3.b. Requires care for the protection of the person or the protection of others

The B.C. Supreme Court (*McCorkell v. Riverview Hospital*) has ruled that the term "protection" goes beyond physical dangerousness. Physical, social, family, vocational or financial harm may be included in the definition of "protection" from serious harms caused by a mental disorder.

Protection of self can include non-physical harms, as mentioned above, or suicidal threats or gestures. Protection of others does not need to be evidenced, for example, by a physical blow. Threats or delusions can also be evidence of a need for protection.

4 – Cannot be suitably admitted as a voluntary patient

Someone who lacks the capacity to consent to admission or treatment cannot be admitted as a voluntary patient. A person may also be unsuitable for voluntary admission if there is a safety concern. For example, if the patient might leave hospital and commit suicide.

7.0 Admissions: Police Intervention

The Medical Certificate has a space for the physician to check off whether the person was brought to the physician by a police officer under section 28(1) of the Act.

8.0 Transportation

The *Mental Health Act* provides authority for anyone to transport the patient to a designated facility once the Medical Certificate is completed. Ordinarily, the ambulance service would be called. If it is safe to do so, a relative can transport the person to hospital.

9.0 Admission, Care, Treatment and Leave

One Medical Certificate is authority for the patient to be apprehended, transported and admitted to the hospital for up to 48 hours. Within that 48 hours, a second certificate must be completed to extend the admission for up to one month or the patient must be discharged. For further extensions, a Renewal Certificate completed by a hospital physician is required. The Renewal Certificate must be completed at one-month, three-month and, thereafter, six-month intervals before the current certificate expires.

Patients' rights include the right to be informed about access to the Review Panel and courts and to obtain a second medical opinion on the appropriateness of their treatment.

Involuntary patients may be placed on leave in the community and community physicians may be authorized to manage the leave.

10.0 Liability

A physician is not liable in damages as a result of signing a Medical Certificate in good faith and with reasonable care (section 16).

11.0 Forms

The Medical Certificate and other *Mental Health Act* forms may be downloaded from the Ministry of Health, Mental Health and Addiction Services Website at: http://www.health.gov.bc.ca/mhd

Blank photocopied forms and completed faxed forms are legal. A photocopy of a completed form that is mailed needs to be marked "certified true copy" and signed.

12.0 When a Person Refuses to be Examined by a Physician

If a physician examination is not possible, there are two ways to obtain involuntary admission:

1. Police

Police officers have powers under the *Mental Health Act*, section 28 (1), to apprehend anyone who (a) is acting in a manner likely to endanger the person's own safety or that of others and (b) seems to have a mental disorder. The police may take the person to a physician, usually at a hospital, for an examination.

2. Judge

Anyone (this is usually a relative, but may be a physician) may go to the court and request and complete a Form 9, Application for Warrant. This is an application to the provincial court for someone to be taken for a physician's examination. The applicant must have good reason to believe the person apparently has a mental disorder and apparently meets the criteria used by a physician for involuntary admission to a designated facility (up to 48 hours).

13.0 More Information

The director of the nearest designated facility can provide more information about involuntary admission. The Ministry of Health document, Guide to the *Mental Health Act*, is available on the Ministry's Mental Health and Addiction Services Website at: http://www.health.gov.bc.ca/mhd.

Ministry staff knowledgeable about the *Mental Health Act* may be contacted by calling [250] 952-1645 or [250] 952-1608.

APPENDIX 4

PHYSICIANS' GUIDELINES FOR COMPLETION OF SECOND MEDICAL CERTIFICATE AND OTHER MEDICAL FORMS AT THE DESIGNATED FACILITY

The following guidelines will assist physicians* in completing forms required under the *Mental Health Act* for patients being admitted and treated at a designated facility. For patients who have not had an initial Medical Certificate completed, refer to Appendix 3, Involuntary Admission Procedures and Criteria - Completing the First Medical Certificate. Inaccurate completion may have legal implications.

The following forms are discussed (see Appendix 16 for copies):

1. Forms for Involuntary Patients:
    - Medical Certificate (Involuntary Admission), Form 4
    - Medical Report on Examination of Involuntary Patient (Renewal Certificate), Form 6
    - Consent for Treatment (Involuntary Patient), Form 5
    - Request for Second Medical Opinion, Form 11
    - Medical Report (Second Medical Opinion), Form 12
    - Leave Authorization, Form 20
2. Forms for Persons Under Age 16 Admitted at Request of a Parent/ Guardian:
    - Medical Report (Examination of a Person Under 16 Years of Age, Admitted at Request of Parent or Guardian), (Renewal Certificate) Form 3
3. Forms for Voluntary Patients:
    - Request for Admission (Voluntary Patient), Form 1
    - Consent for Treatment (Voluntary Patient), Form 2

*If a form refers to "M.D." and a physician has another medical qualification, the "M.D." can be struck.

1.0 Forms for Involuntary Patients

1.1 COMPLETING THE SECOND MEDICAL CERTIFICATE (FORM 4) AT THE DESIGNATED FACILITY

The second Medical Certificate must be completed within 48 hours of the patient's admission to a designated facility. The certificate is to be completed by a different physician than the one who completed the first certificate. The criteria and procedures used for completing the certificate are exactly the same as for the first certificate. A copy of Form 4 is in Appendix 16.

TIMING OF SECOND CERTIFICATE

To continue the involuntary admission, the second Medical Certificate must be completed within 48 hours of the admission to the designated facility. It is important to record, on the patient's clinical record, the date and time the patient was admitted. This ensures that the facility is aware when the 48-hour period expires. The 48 hours is provided to give sufficient time for a thorough examination. The intent, however, is that the second certificate be provided as soon after admission as is practical. Normally, two medical certificates should be in place before treatment is commenced.

A suggested guideline is that, if it is obvious that the criteria for involuntary admission are met when the admitting physician (often in the emergency room) examines the patient, the admitting physician may complete the second certificate. However, if it is not obvious – where, for example, the patient can present well and hide delusions or hallucinations for a short time – the admitting physician should accept the Medical Certificate on the basis of which the patient was brought in. The second certificate would then be completed after the patient has been observed and collateral information can be assessed.

Appendix 17 provides a checklist (optional form S1) to ensure the Medical Certificate is accurately completed.

DURATION OF INVOLUNTARY STATUS (WHAT A "MONTH" MEANS)

Two completed medical certificates are good for one month from the date of admission. In law, this means that if, for example, a patient is admitted on the initial certificate any time before midnight on October 3, the authority to detain that patient expires at midnight, November 2 (one calendar month less a day).

JUDICIAL WARRANT (SECTION 28 (4))

Where a person is admitted under a warrant issued by a judge (or when a judge is not available, a justice of the peace), the person may be detained for up to 48 hours from the time of admission. Facilities should, therefore, ensure that the exact time of the patient's admission is recorded on the patient's clinical record.

Since the admission is on a warrant and not a Medical Certificate, two medical certificates are required to convert the admission into section 22 status. The two certificates allow for continued detention for up to one month from the date of admission.

FILING MEDICAL CERTIFICATES

The original medical certificates are to be filed at the facility that admits the patient. If, under section 35, a patient is transferred to another facility, photocopies of the original medical certificates and any renewal certificates should be faxed to the receiving facility (the fax should show the sending facility's name). If the photocopies are to be mailed, they should be certified (marked) as "true copies".

1.2 COMPLETING THE RENEWAL CERTIFICATE (MEDICAL REPORT ON EXAMINATION OF INVOLUNTARY PATIENT) (FORM 6)

GUIDELINES FOR PHYSICIANS

The Renewal Certificate (Form 6) gives the designated facility authority to continue the patient's involuntary status beyond one month. A copy of Form 6 is in Appendix 16. The Renewal Certificate should be filled out reasonably close to the expiry date of the original Medical Certificate or previous Renewal Certificate. Renewal during the 3 and 6 month periods must be done ONLY in the last month prior to expiry. Factors such as the location of the patient (e.g. on leave) and the availability of the physician may determine how far in advance the certificate needs to be prepared. The following points should be noted:

THE EXAMINATION

The physician must conduct a personal interview with the patient. A review of file notes (nursing notes) and information from others, such as family or friends, involved in the treatment or any discharge plan is usually part of the examination.

DOCUMENTING

As long as the source is documented, reference may be made to nursing notes or information from others. An acceptable statement would be: "The patient's brother, John Smith, states that, on the weekend of June 15, the patient threatened to kill him."

CRITERIA FOR RENEWAL

The criteria for renewal are the same as for initial admission (section 22). In considering whether the patient meets the criteria, the physician must consider the patient's history of hospitalization and treatment compliance. All reasonably available evidence must be considered. The physician must also consider the likelihood whether or not, if discharged, the patient will comply with a treatment plan the physician considers "...necessary to minimize the possibility that the patient will again be detained under section 22" (section 24).

COMMENTS

Where necessary, a separate sheet for comments may be attached.

PROGRESS NOTES

Keep a detailed progress note on the patient's clinical record.

INSTRUCTIONS FOR COMPLETING THE FORM 6:

Each of the following letters (A to M) corresponds to the same letter marked on the copy of Form 6 which immediately follows these instructions.

In this suggested order:

A) Enter the full name of the physician authorized by the director to conduct the examination of the involuntary patient. Only physicians licensed to practice medicine in BC may be authorized to conduct examinations under section 24 of the Act and complete the Form 6. It is advisable that the physician responsible for the treatment of the patient conduct the examination for renewal of hospitalization.

B) Enter the name of the designated facility (hospital) as listed in Appendix 1, in which the involuntary patient is currently hospitalized (and being examined) unless the patient is on extended leave.

C) Enter the date the physician conducted the examination of the patient. The examination must include a personal interview with the patient. Collateral information such as documented health record entries by nursing staff, information from family, friends, etc., may be cited. Remember the examination must include consideration of the patient's history of illness, hospitalization, compliance with treatment following hospitalization, and assessment of risk of deterioration and re-admission if non-compliant with treatment following discharge.

D) Enter the full name of the patient, preferably as it appears on the Form 4 and/or previous Form 6.

E) Enter the date the patient was admitted as an involuntary patient to a designated facility. If the physician is completing the first Form 6 (for the second one month period) the admission date will have to be determined from the patient's health record as this date does not appear on the Form 4. Note that if a patient was admitted as a voluntary patient first and subsequently 'converted to' (e.g., admitted as) an involuntary patient, the admission date is not the original admission date as a voluntary patient, but the date the patient became involuntary.

F) Enter the name of the designated facility as listed in Appendix 1, to which the patient was admitted as an involuntary patient. If the patient was transferred to another designated facility after admission, enter the name of the (first) designated facility that initiated the involuntary hospitalization.

G) Enter the length of the (upcoming) period of renewal for which the examination is being conducted. For example if the patient is currently in the 3 month renewal period, the number entered here will be 6, indicating the next period of involuntary hospitalization will be 6 months in length. Note that periods of renewal must follow the sequence laid out in the Act and cannot be shortened or lengthened by a physician or director.

H) Enter the last day of the next (upcoming) period of renewal. For example if the patient is currently in the first month of hospitalization which began April 15 (admission date) and the Form 6 is being completed for the second one month period of renewal (May 15 – June 14), the date entered here would be June 14 – the last day of the next period.

I) Enter in detail the reasons for concluding the patient will continue to require involuntary hospitalization after the end of the current period.

J) Specifically, the physician should reference the considerations required in section 24(2.1) (listed at the bottom of the Form 6) and should provide specific evidence to support the opinion that the patient is described by the involuntary admission criteria (section 22(3) – also listed at the bottom of the Form 6).

K) The physician may reference information in the nursing notes describing the patient's clinical status and behaviours and should include any direct observations made by the physician.

L) The physician conducting the examination and completing the Form 6 must sign the form.

M) Enter the date the physician completed the Form 6. This may or may not be the same date as E. above (date of examination). The examination can be completed anytime in the month prior to the end of the period (preferably as close as possible to the end of the month), but it and the Form 6 must be completed before midnight on the last day of the current period.

FORM 6
MENTAL HEALTH ACT
[Section 24, R.S.B.C. 1996, c. 288]

MEDICAL REPORT ON EXAMINATION OF INVOLUNTARY PATIENT
(RENEWAL CERTIFICATE)

I, ______ A ______, M.D., being a physician and the
name of physician (please print)

director of, ***or*** a physician authorized by the director of, ______ B ______
name of designated facility

certify that on ___ C ___ I examined ______ D ______
dd / mm / yyyy *first and last name of patient (please print)*

who on ___ E ___ was admitted as an involuntary patient to ______ F ______.
dd / mm / yyyy *name of designated facility*

On the basis of my examination, and having taken into consideration the requirements of section 24 (2.1)* of the *Mental Health Act*, I have formed the opinion that: (1) sections 22 (3) (a) (ii) and (c)** of the Act continue to describe the condition of the patient; and (2) that this patient's status as an involuntary patient should be renewed.

The patient's status as an involuntary patient is renewed for a period of up to ______ G ______.
number of month(s)

The patient must be examined again on or before ___ H ___, the date on which this renewal
dd / mm / yyyy

expires. The reasons that lead me to form the above opinion are:

I, J, K

Note: if above space is insufficient, continue on back of form

L ______ M ______
signature of physician *dd / mm / yyyy*

Notes:

* Section 24 (2.1) requires that the physician's examination must include:
- *(a) consideration of all reasonably available evidence concerning the patient's history of mental disorder including (i) hospitalization for treatment, and (ii) compliance with treatment plans following hospitalization, and*
- *(b) an assessment of whether there is significant risk that the patient, if discharged, will as a result of mental disorder fail to follow the treatment plan the director or physician considers necessary to minimize the possibility that the patient will again be detained under section 22.*

** *Section 22 (3) of the Act states the following involuntary admission criteria:*
The patient is a person with a mental disorder who (i) requires treatment in or through a designated facility, (ii) requires care, supervision and control in or through a designated facility to prevent the patient's substantial mental or physical deterioration or for the protection of the patient or the protection of others, and (iii) cannot suitably be admitted as a voluntary patient.

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TABLE 1: RENEWING INVOLUNTARY STATUS

Mental Health Act Section 24 Renewals – Long Month to Short Month Scenarios (Examples Only)

Admit Date (1st Month Starts)	1st Month Ends	2nd Month Starts	2nd Month Ends	3 Months Start	3 Months End	6 Months Start	6 Months End	Next 6 Months Start
Jan 31	Feb 28	Mar 1	Mar 31	Apr 1	Jun 30	Jul 1	Dec 31	Jan 1
Mar 31	Apr 30	May 1	May 31	June 1	Aug 31	Sep 1	Feb 28	Mar 1
May 31	Jun 30	Jul 1	Jul 31	Aug 1	Oct 31	Nov 1	Apr 30	May 1
Aug 31	Sep 30	Oct 1	Oct 31	Nov 1	Jan 31	Feb 1	Jul 31	Aug 1
Oct 31	Nov 30	Dec 1	Dec 31	Jan 1	Mar 31	Apr 1	Sep 30	Oct 1
Dec 31	Jan 30	Jan 31	Feb 28/29	Mar 1	May 31	Jun 1	Nov 30	Dec 1
Jul 31	Aug 30	Aug 31	Sep 30	Oct 1	Dec 31	Jan 1	Jun 30	Jul 1
Sep 29	Oct 28	Oct 29	Nov 28	Nov 29	Feb 28	Mar 1	Aug 31	Sep 1
Sep 30	Oct 29	Oct 30	Nov 29	Nov 30	Feb 28	Mar 1	Aug 31	Sep 1
Mar 29	Apr 28	Apr 29	May 28	May 29	Aug 28	Aug 29	Feb 28	Mar 1
Mar 30	Apr 29	Apr 30	May 29	May 30	Aug 29	Aug 30	Feb 28/29	Mar 1

NOTE: The examination should be held within the last month before certificates expire, and preferably close to the end of that period.

1.3 COMPLETING THE CONSENT FOR TREATMENT (INVOLUNTARY PATIENT) FORM (FORM 5)

GUIDELINES FOR PHYSICIANS

Form 5, Consent for Treatment (Involuntary Patient), permits the designated facility to treat an involuntary patient, regardless of whether the patient is mentally capable of consenting. A copy of Form 5 is in Appendix 16.

Except in an emergency, Form 5 must be signed before medication can be given. If the patient does not sign the form, the director or designate must sign. Form 5 is completed by the physician initiating treatment. Sections 8 and 31 provide this authority. Section 8 states:

> "A director must ensure:
>
> > (a) that each patient admitted to the designated facility is provided with professional service, care and treatment appropriate to the patient's condition and appropriate to the function of the designated facility and, for those purposes, a director may sign consent to treatment forms for a patient detained under section 22, 28, 29, 30 or 42...."

> Furthermore, section 31 reads:
>
> > "If a patient is detained in a designated facility under section 22, 28, 29, 30 or 42 or is released on leave or is transferred to an approved home under section 37 or 38, treatment authorized by the director is deemed to be given with the consent of the patient."

The form authorizes only psychiatric treatment. (For non-psychiatric treatment, see next section.). How the form is completed depends on whether the patient signs the form (see A) or does not sign (see B).

A - Patient Signs Consent Form

The physician first explains to the patient the nature of the patient's condition and the reasons for, and likely consequences of, the treatment.

If the patient demonstrates that they are "capable of understanding the nature of the above authorization", the patient signs Part "A" of Form 5 (bottom left). The physician signs below the signatures of the patient and witness. The name of the patient is printed on line A at the top of the form. The treating physician's name goes after "...have been explained to me by...." in the middle of the form.

B - Director or Designate Signs Consent Form

If the patient does not demonstrate an understanding of the information given or is unable to sign (or does not sign) the form, the director or designate must sign part B of the form (bottom right) to provide substitute consent so that treatment can be provided. The substitute consent should not be given by the treating physician. Any staff member designated by the director can provide substitute consent. When clinical staff members (e.g. nurses) provide substitute consent on Form 5, they are only signing the form on behalf of the director and are not making a clinical decision to approve the treatment prescribed by the physicians.

The physician signs the bottom of Part B indicating the patient is "an involuntary patient under section 22, 28, 29, 30 or 42 of the *Mental Health Act*" and, to the best of the physician's judgment, the patient "is incapable of appreciating the nature of treatment and/or his or her need for it, and is therefore incapable of giving consent."

The name of the director or designate is printed on line B at the top of the form. The patient's name is printed on the third line. The treating physician's name goes after "...have been explained to me by...." in the middle of the form.

The physician explains, orally or in writing, to the director or designate the nature of the patient's condition and the reasons for and likely benefits and risks of the treatment(s).

The director or designate signs their name on the first line of Part B (bottom right) of the form and prints their name below.

The form must be signed before medication or other treatment can be given.

CONSENT FOR NON-PSYCHIATRIC TREATMENT

Form 5 only authorizes psychiatric treatment (section 8). Where non-psychiatric treatment is required and the patient is capable of and gives consent, the treatment can be provided. Should the capable patient refuse, the treatment cannot be provided.

Section 12(1) of the *Health Care (Consent) and Care Facility (Admission) Act* gives authority to provide urgent or emergency care without consent if:

a) It is necessary to provide the health care without delay in order to preserve the adult's life, to prevent serious physical or mental harm or to alleviate severe pain,

b) the adult is apparently impaired by drugs or alcohol or is unconscious or semi-conscious for any reason or is, in the health care provider's opinion, otherwise incapable of giving or refusing consent,

c) the adult does not have a substitute decision maker, guardian or representative who is authorized to consent to the health care, is capable of doing so and is available, and

d) where practicable, a second health care provider confirms the health care provider's opinion about the need for the health care and the incapability.

If the patient is incapable and there is no "emergency," a substitute decision should be obtained from a court appointed decision-maker, a representative with authority to make health care decisions, or a close family member (see *Health Care (Consent) and Care Facility (Admissions) Act)*.

PSYCHIATRIC EMERGENCIES

Except in emergencies, patients can be treated only with consent. For involuntarily admitted patients, this consent is given when Form 5, Consent for Treatment (Involuntary Patient), has been signed.

1.4 REQUEST FOR A SECOND MEDICAL OPINION ON APPROPRIATENESS OF THE TREATMENT

Section 31 (2) allows for a patient or someone on their behalf to request a second medical opinion on the appropriateness of the treatment. Any physician licensed to practice medicine in British Columbia may be asked to conduct the examination and provide an opinion. A psychiatrist's opinion would be most appropriate, if available.

A second medical opinion can be requested once per renewal period (one month, second month, three months and every six months thereafter).

PROCESS OF OBTAINING A SECOND MEDICAL OPINION (REGULATION, SECTION 8)

The second opinion may be requested either by the patient or "a person on the patient's behalf". The person doing so must have a legitimate interest in the patient's well-being.

Form 11 is used to request the second opinion. A copy of Form 11 is in Appendix 16. The examination must be conducted as "soon as reasonably practicable". When Form 11 is completed, some health authorities have developed a form which is sent to the physician selected by the patient or a person acting on behalf of the patient. The purpose of the form is to inform the physician that a second medical opinion has been requested and to determine if this physician is willing to provide it. An example of this form is provided in Appendix 17.

The physician requested to provide the second opinion must be willing to conduct the examination. The facility is not required to reimburse a patient, or someone acting on behalf of a patient, for expenses incurred in connection with obtaining the second medical opinion. The expenses of the medical examination are covered by the provincial government.

Ordinarily, there would be no other expenses, such as travel, because the physician would be located within reasonable distance of the facility. An exception would be if the requested physician had to travel by air to provide the opinion. In this case, reasonable costs not otherwise reimbursed are the responsibility of the patient, not the facility. If it is possible a patient may incur costs for the second medical opinion, these costs should be clearly spelled out and payment arrangements made prior to the exam occurring.

1.5 MEDICAL REPORT OF THE PHYSICIAN PROVIDING A SECOND MEDICAL OPINION

Form 12, Medical Report (Second Medical Opinion), is used to record the physician's opinion and recommendations. A copy of Form 12 is in Appendix 16. The director of the designated facility must sign the form to indicate they have received the report.

DIRECTOR'S RESPONSE AND FOLLOW-UP

Following receipt of the second medical opinion and [optional] discussion with the consulting physician, the director must consider whether changes should be made in the patient's authorized treatment. Where the director deems it appropriate to make changes to the treatment plan, the director can authorize these changes.

Note: As with any change, if there is a significant change to the treatment plan (e.g., more than a change of dosage or classification of medication), a new Form 5, Consent to Treatment (Involuntary Patient), must be completed.

1.6 LEAVE AUTHORIZATION (FORM 20)

Leave from hospital of more than 14 days requires the completion of Form 20, Leave Authorization. Guidelines on the completion of Form 20 are included in Appendix 6.

2.0 Forms for Persons Under Age 16 Admitted at the Request of a Parent/Guardian

For a person under age 16 to be admitted to hospital under the *Mental Health Act*, a parent or guardian must sign Form 1, Request for Admission (Voluntary Patient), on behalf of the minor. In order for treatment to begin, the parent or guardian must sign Form 2, Consent for Treatment (Voluntary Patient).

2.1 MEDICAL REPORT (EXAMINATION OF A PERSON UNDER 16 YEARS OF AGE) FORM 3

Form 3, Medical Report (Examination of a Person Under 16 Years of Age, Admitted at the Request of a Parent or Guardian) (Renewal Certificate) must be completed to continue to provide treatment to someone under 16 years of age who does not want admission and treatment but was admitted on the authority of a parent or guardian. The time periods for renewal certificates are the same as for involuntary patients (section 20). The patient can only be treated if they continue to have a mental disorder.

Forms 1, 2 and 3 are in Appendix 16.

If there is a person under 16 years of age who has been voluntarily admitted by a parent but there is concern over who should sign the consent form (e.g., disagreement between parents), the person should be made an involuntary patient if the criteria for involuntary admission are met. This will allow the director to sign the consent form to begin treatment.

3.0 Forms for Voluntary Patients

To be admitted to hospital under the *Mental Health Act*, voluntary patients must sign Form 1, Request for Admission (Voluntary Patient). Before treatment begins, they must also sign Form 2, Consent for Treatment (Voluntary Patient). They may revoke the consent at any time. See Appendix 16 for copies of Form 1 and Form 2.

APPENDIX 5

ROLE OF POLICE OFFICERS UNDER THE *MENTAL HEALTH ACT*

The police have the following roles under the *Mental Health Act*:

- Authority to apprehend a person with an apparent mental disorder and transport them to a physician for an examination.
- Assisting in the apprehension and transportation of a person under a Medical Certificate issued by a physician.
- Apprehending and transporting a person on a warrant for examination issued by a judge.
- Apprehending and returning patients to a designated facility.

Other roles not under the *Mental Health Act*, but related, include:

- Custody at the designated facility.
- Assisting hospital staff to keep the peace.

1.0 Patients Admitted Under Section 28 (1) – Apprehension by Police:

Section 28 (1) of the Act states: "A police officer or constable may apprehend and immediately take a person to a physician for examination if satisfied from personal observations, or information received, that the person (a) is acting in a manner likely to endanger that person's own safety or the safety of others, and (b) is apparently a person with a mental disorder."

- The police officer does not have to personally observe the person's behaviour. The police officer may act on "information received by him or her". This information may come from family members, health professionals or others.
- The person does not have to commit a crime or have done something dangerous. The police officer must be satisfied that the person is apparently suffering from a mental disorder and is acting in a manner likely to endanger their safety or the safety of others.

When a patient is brought to a hospital (or community physician) by police under Section 28(1) of the Act, it is important that a brief written report be provided to hospital staff by police. This report should include relevant observations of the patient's behavior by police. A form may be developed locally for this purpose or the sample triage forms discussed below may be used.

A number of triage forms have been developed to assist police in deciding whether to apprehend a person under Section 28(1) of the Act. The forms are being used by police in some communities and have proven useful. The following forms are not required by the *Mental Health Act*, but have been included in Appendix 17 for those who wish to select one of them for local or regional use:

- Form S3 is the Police Triage Guide developed by the Mental Health Committee of the B.C. Association of Chiefs of Police. It relates specifically to the B.C. *Mental Health Act*.
- Form S4 is the Mental Health Occurrence and Crisis Triage Rating Scale which is used by the RCMP in some communities.
- Form S5 is an expanded version of the Crisis Triage Rating Scale which incorporates alcohol and drug use into the scale.

As police departments and service providers gain more experience with these forms, they are encouraged in the future to discuss and evaluate their effectiveness and consider adopting a common form. With standardization of information obtained on triage guides, it will become easier to exchange appropriate information and access information from any electronic databases that could be established in the future.

Form S6 in Appendix 17 is the Proposed Patient Apprehension Request which is accepted by police in some B.C. communities. It offers information and a professional mental health opinion on a patient to police. This information may assist the police in reaching a decision on whether to use their powers under section 28(1) to apprehend and transport a person for an examination by a physician. It is not an official form under the *Mental Health Act*, but is included in the Guide as an optional form.

2.0 Assisting with a Patient's Apprehension, Transportation and Admission (Medical Certificate)

Section 22 (6) states that a Medical Certificate "...is authority for anyone to apprehend the person to be admitted, and for the transportation, admission and detention for treatment of that person...." (Form 4, Medical Certificate (Involuntary Admission), is in Appendix 16). In addition to police, authorized persons may include paramedics and, where a physician believes it is safe, relatives or others.

3.0 Executing a Warrant for Admission (Court Order)

Section 28 (5) states that Form 10, Warrant (Apprehension of Person with Apparent Mental Disorder), issued by a Provincial Court judge or a justice of the peace, is authority for a police officer to apprehend and transport a person to a designated facility. The facility has an obligation to examine the patient and determine whether a Medical Certificate (Form 4) should be completed and, if so, arrange for appropriate admission or transfer of the patient.

4.0 Custody at the Hospital

When a person is brought to hospital based on a certificate completed in the community, or on a warrant issued by a judge or justice of the peace or a warrant signed by or on behalf of a director of a designated facility for the apprehension of a person on unauthorized leave, the hospital has immediate legal authority to prevent the patient from leaving. After hospital staff have checked the documentation and whether police assistance is necessary for the safe conveyance of the patient to their bed, the police can leave.

The hospital cannot legally take on the responsibility for detaining a person who has been apprehended by the police under section 28(1) until one Medical Certificate has been completed. If the police leave before the completion of the certificate, the hospital has no legal authority to prevent the person from leaving and would therefore not be legally responsible if such a person were to leave and harm themselves or others. The police may be asked to assist in, for example, getting the patient safely to their room.

However, it is essential that every effort be made for the person to be examined and if found to fit the involuntary admission criteria, certified as soon as is possible so that the police can return to their regular duties.

5.0 Assisting Hospital Staff

There is no provision in the Act for the police to assist hospital staff. Authority to assist staff in unsafe situations derives from a police officer's common law duties, which include a duty to preserve the peace, a duty to protect life and property and a duty to enforce the law. In addition, various provisions found in the *Criminal Code of Canada* may provide specific authority in certain situations. For example, section 31 provides authority to arrest a person for breach of the peace and section 495 (1) (a) provides a police officer with authority to arrest a person who is about to commit an indictable offence. These are only some examples of the *Criminal Code* provisions that may apply to a particular situation.

Local and community protocols are strongly recommended to clarify working relationships between police and hospital staff. Advance planning will assist in managing serious disturbances involving patients or visitors.

6.0 Patients to be Apprehended and Returned to the Designated Facility

6.1 PATIENTS ON LEAVE AND LIABLE FOR RECALL (SECTION 39 (3) WARRANT ISSUED)

Form 21, Director's Warrant (Apprehension of Patient), is authority for a "peace officer" to apprehend and transport a patient back to a facility. A peace officer does not exercise judgment about the need to apprehend, but "must give any assistance required in the apprehension of the patient or the transportation of the patient to the designated facility" (section 41 (2)). A copy of Form 21 is in Appendix 16.

6.2 PATIENTS WHO ESCAPE INVOLUNTARY DETENTION (WARRANT NOT ISSUED)

Section 41 (6) provides authority to apprehend such a person within 48 hours of their escape and return them to the facility they left or some other facility authorized by the director.

6.3 PATIENTS WHO ESCAPE INVOLUNTARY DETENTION (WARRANT ISSUED)

When a patient goes on unauthorized absence, either from a designated facility or from leave, the facility director may issue Form 21, Director's Warrant

(Apprehension of Patient). Under section 41 (1) of the *Mental Health Act*, the director has authority to issue the warrant within 60 days after the date on which the patient leaves the facility.

The warrant is authority for a peace officer to apprehend and transport the person back to the facility. A peace officer does not exercise judgment about the need to apprehend, but "must give any assistance required in the apprehension of the patient or the transportation of the patient to the designated facility" (section 41 (2)). A copy of Form 21 is in Appendix 16.

The validity of the warrant ends on the date specified by the director in the warrant (Form 21) except in circumstances where the director indicates the patient has been charged with an offence or is liable to imprisonment or will likely endanger their own safety or that of others. In these situations the warrant remains valid until the patient has been apprehended.

6.4 VOLUNTARY PATIENTS WHO LEAVE THE DESIGNATED FACILITY

Police may be requested to return a voluntary patient who has left the hospital. This may occur when there is a concern for the person's safety or that of others. Police may act on information received from hospital staff to apprehend and return the person to the hospital under section 28 (1) of the *Mental Health Act*. Following an examination by a physician, the person can be admitted as a voluntary or an involuntary patient.

7.0 Escort for Female Patients

Section 19 of the *Mental Health Act* indicates that: "The person who requests or applies for the admission of a female person to a Provincial mental health facility must arrange for her to be accompanied by a near relative or a female person between the time of the request or application and her admission to a Provincial mental health facility."

This section does not apply to police or paramedics who convey female patients to a psychiatric unit or an observation unit or who transfer a female patient from a psychiatric unit to a Provincial mental health facility.

See Appendix 1 for a list of Provincial mental health facilities designated under the *Mental Health Act*.

8.0 Use of a Lock-Up

Anyone apprehended by police under section 28 (1) must be immediately taken for a medical examination. It is not appropriate to hold a person in custody, unless they have committed an offence or, in the case of a remote location, cannot be immediately transported for an examination.

9.0 Entering a Private Dwelling

Although the Act does not specifically address the issue, police have authority to enter a private dwelling to apprehend someone under the *Mental Health Act*. This issue is addressed in this Guide in section 3.2, Involuntary Admissions, under "Method 2: Police Intervention" and also in Question 21 which follows the section on Police Intervention.

10.0 Information for Relatives or Friends

Where the police have been called, but police intervention is inappropriate, officers may want to advise relatives or friends about their alternatives. Alternatives for helping someone receive a physician's examination and treatment include:

(i) Assistance from a physician, by taking the person to a physician or asking a physician to come and assess the person.

(ii) Where the person refuses to see a physician, assistance from a judge who can order that the person be apprehended and transported by the police to a designated facility for an examination. The local courthouse, hospital psychiatric unit or mental health centre will have information on this alternative.

Being apprehended by police can be a traumatic experience. A trusted family member, friend or other person with an established relationship with the person may be able to play a supportive role during the process of apprehension, transport to a designated facility and psychiatric examination. They should not feel obligated to do this, however, if there are safety concerns or if they would be uncomfortable doing it.

11.0 Protection from Liability

Section 16 states that: "A person is not liable in damages as the result of... transporting or taking charge of a person on the authority of (i) a Medical Certificate, or (ii) if a peace officer, a warrant..." if this is done "in good faith and with reasonable care".

APPENDIX 6

EXTENDED LEAVE

This appendix includes instructions for completing Form 20, Leave Authorization, and Table 2 which provides a list of forms under the Act relevant to extended leave and how to use them.

1.0 Instructions for Completing the Form 20:

Each of the following letters (A to J) corresponds to the same letter marked on the copy of Form 20 which immediately follows these instructions.

In this suggested order:

A. Enter the full name of the patient, preferably as it appears on the Form 4 and/or Form 6.

B. Enter the name of the hospital from which the patient will be released on extended leave.

C. Enter the date the leave is to begin (ie: the day the patient will leave the hospital).

D. Enter the date on which the current period of involuntary hospitalization expires. If the current period is the second one month period, the expiry date will appear on the Form 6 (Renewal Certificate). If the patient is to be released within the first 1 month period, the expiry date will be a month less a day from the admission date (see section 5.0 Renewal of Involuntary Status). (Note: It is also important to provide copies of the Form 4 and/or Form 6 to the community care providers.)

E. List all conditions of leave agreed with the community care providers and the patient. The conditions of the leave should …

   - be least restrictive (ie: as few mandatory requirements as possible)
   - include only those essential to prevent re-hospitalization
   - if possible, permit reasonable choice as to geographic location of residence
   - be part of a comprehensive community treatment plan.

Examples of leave conditions include requiring the patient to…

- live with a particular person or in a residential facility,
- take medication, or
- report at specified times to the hospital or Mental Health Centre.

F. Tick the box to indicate that the director, or designated physician authorizing leave is satisfied that the community care providers are able to provide the level of service necessary to maintain the patient in the community.

G. Tick the boxes to indicate the responsibilities that will be assumed by the community physician to be authorized by the director or designated physician. It is generally accepted practice for all 5 responsibilities to be assumed. This section also indicates the community physician has agreed to accept these responsibilities.

H. Enter the name, phone number and address of the community physician who has agreed to accept responsibility for the patient. Although the Form does not include a space for the community physician to sign indicating acceptance, it is advisable to have the community physician sign her/his name in this area prior to authorizing leave.

I. This area is for the patient to sign once the conditions of leave have been explained to him/her. Although the meaning of extended leave and the conditions of leave should always be explained to the patient, the signature of the patient is not required to legally validate the form or authorize leave.

J. The director of the designated facility releasing the patient, or a physician authorized by the director, must sign in this area to finally authorize leave as described in the prior sections of the Form. The date of the signature should always be on or before the date leave commences.

NOTE: When a patient is being placed on extended leave and being transferred to a new designated facility, a copy of the completed Form 20 should be sent to the new designated facility and the residential facility where the patient will be placed.

FORM 20
MENTAL HEALTH ACT
[Section 37, R.S.B.C. 1996, c. 288]

LEAVE AUTHORIZATION

A

______________________________ is released on leave from
first and last name of patient (please print)

B ______________________________ C ____/____/______.
name of designated facility (please print) *date (dd / mm / yyyy)*

D

The above-named patient's medical certificate expires on ____/____/______.
date (dd / mm / yyyy)

CONDITIONS OF LEAVE ***(must be completed)***

E

Note: if above space is insufficient, continue on back of form

F ☐ It is my opinion that appropriate supports exist in the community to meet the conditions of leave.

I hereby authorize the physician named below, who has agreed to do so, to assume the following responsibilities:

G
- ☐ clinical care of the patient
- ☐ completion of renewal certificate
- ☐ renewal and modification of conditions of leave
- ☐ recall from leave
- ☐ discharge of the patient

H

______________________________ ______________________
physician's name (please print) *phone number*

____
physician's address

J

____
director's signature

____/____/______
date signed (dd / mm / yyyy)

I confirm that the conditions of my leave have been explained to me.

I

____
signature of patient

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TABLE 2: *MENTAL HEALTH ACT* FORMS - LIST AND INSTRUCTIONS (FOR EXTENDED LEAVE)

(All Forms are to be filed on the patient's Health Record.)

Form #	Form Name	Intended Use	When to Use
Form 5	Consent for Treatment (Involuntary Patient)	Documents the consent for any and all psychiatric Tx given to a patient	a completed Form 5 copy should be provided by the releasing hospital when EL commences new Form 5 to be written by physician and signed by patient or Director whenever Tx changes
Form 6	Medical Report on Examination of Involuntary Patient (Renewal Certificate)	Continues the Involuntary status of the EL patient	current Form 6 should be provided by releasing hospital when EL commences Form 6 must be completed by a physician prior to the end of each renewal period see Guide Section on Renewals for instructions on completing Form 6
Form 7	Application for Review Panel Hearing	Allows a patient to request a Review Panel when desired	Form 7 to be made available to the patient when requested patient completes Form 7 and returns to Mental Health Centre (MHC)* MHC forwards to Review Panel Office (Fax: 604.524.7216; Ph: 604.524.7220) Review Panel Office advises MHC of time of Hearing…MHC advises patient
Form 8	Review Panel Determination	Provides the decision of the Review Panel after the Hearing	Form 8 returned to MHC from Review Panel Office if patient is released, physician must discharge the patient and EL ends patient can remain client of MHC on voluntary basis
Form 11	Request for Second Medical Opinion	Allows a patient to request an opinion from another physician on his/her psychiatric Tx	when a patient is not signing his/her own Form 5, the patient may request a second opinion on the psychiatric Tx being given patient may request this in each renewal period MHC should provide Form 11 to patient to complete and return to MHC MHC responsible to arrange the examination from second physician as soon as possible
Form 12	Medical Report (Second Medical Opinion)	Provides opinion given by the second physician	physician must compete the Form 12 and return to MHC within 2 days after the examination MHC Director must review completed Form 12 and decide whether to act upon the opinion (if different from prevailing Tx) if acting on the second opinion requires a change in the Tx, a new Form 5 should be completed and signed by patient or MHC Director

Form #	Form Name	Intended Use	When to Use
Form 13	Notification to Involuntary Patient of Rights Under the Mental Health Act	Advises a patient of his/her rights each time renewal certificate is completed	a caseworker should explain the Form 13 to the patient at the time of or shortly after certification is renewed by the physician (eg: Form 6 completed) the caseworker should ask the patient to sign Form 13 when finished reading (patient allowed to refuse) patient should be given a copy of the Form 13
Form 15	Nomination of Near Relative	Allows a patient to select a 'near relative'	a copy of completed Form 15 should be provided by releasing hospital when EL commences if a patient has not named and will not name a near relative the MHC Director must choose a person patient may request to change choice of near relative anytime provide form to patient and file when completed
Form 17	Notification to Near Relative (Discharge of a Patient)	Advises the near relative when the patient is discharged from EL	Director or physician must sign Form and send to near relative when (a) the patient is discharged from EL by the physician, or (b) a Review Panel releases the patient (Also, if a renewal certificate lapses and extended leave ends, notification of a near relative is recommended.) if no near relative was chosen (by patient or Director), Form 17 must be sent to the Public Guardian and Trustee
Form 18	Notification to Near Relative (Request or Order for a Review Panel Hearing)	Advises the near relative when a Review Panel Hearing is applied for or ordered.	Director must sign Form 18 and send to the "near relative" when… ⇒ the patient applies for a Review Panel Hearing, or ⇒ someone other than the near relative applies for a RP Hearing on behalf of the patient, or ⇒ the Review Board Chair orders a Hearing after 12 months of EL
Form 19	Certificate of Discharge	Allows a patient to prove they are no longer Involuntary	Director or physician may sign and provide to a discharged EL patient only if requested by patient
Form 20	Leave Authorization	Authorizes Extended Leave for an Involuntary patient and delegates care to a community physician	a completed and signed Form 20 shall be provided to MHC by the releasing hospital if, while a patient is on EL, "conditions of leave" change substantially or the patient moves to another health region, a new Form 20 should be completed by the community physician/case manager and signed by the Director
Form 21	Director's Warrant (Apprehension of Patient)	Authorizes the police to return a patient to hospital	completed by the community physician or Director if a patient must be "recalled" to hospital but will not voluntarily return presented to the police when completed
Suggested Form	Assignment of Additional Director's Functions (under the Mental Health Act)	Allows the MHC Director to carry out functions for Involuntary patients under the Mental Health Act	to be completed and signed by the releasing hospital the MHC Director's name should appear as the person to whom the functions are to be assigned

* Note: References to MHC mean a Mental Health Centre, treatment facility or other community location where extended leave is administered with approval of the Health Authority, Mental Health and Addictions Director (or equivalent). This includes an independent treating community physician who has taken responsibility for administering extended leave.

APPENDIX 7

REVIEW PANEL PROCEDURES

1.0 Eligibility

The *Mental Health Act* gives the following patients the right to appeal their detention to the Review Panel:

- adults, youth and children admitted involuntarily under section 22, whether an inpatient or on leave, following the completion of the second Medical Certificate; and
- children and youth under 16 admitted under section 20 on the request of a parent or guardian.

2.0 Application

The Review Panel hearing is initiated at the request of the patient or someone acting on the patient's behalf. The patient completes Form 7, Application for Review Panel Hearing, and gives it to hospital staff. The staff will then give the form to the director or designated staff member to be faxed to the Review Panel office [(604) 524-7216]. A rights advisor or other person may forward the patient's application directly to the Review Panel office. A copy of Form 7 is in Appendix 16.

3.0 Patients on Leave

A patient on leave has the same rights to a Review Panel hearing as an inpatient.

In addition, if a patient has been on leave for 12 or more consecutive months without a hearing, the board chair must review the patient's treatment record and, if satisfied there is a reasonable likelihood that the patient would be discharged, order a hearing (section 25 (1.1) of the Act).

The designated facility is responsible for informing the Review Panel office of patients who qualify for a review of their record.

4.0 Notification to Near Relative

The "near relative" named on Form 15 will be informed by means of Form 18 of all Review Panel hearings requested by the patient or by someone else who is not the near relative.

5.0 Hospital Responsibility

When the patient applies for a Review Panel hearing, the facility must immediately notify a near relative by sending them a copy of Form 18, Notification to Near Relative (Request or Order for a Review Panel Hearing). The near relative is nominated by the patient from a list contained on Form 15, Nomination of Near Relative. The director may send a copy of Form 18 to another near relative if they consider it to be in the best interests of the patient or for the health or safety of others. Copies of Form 15 and Form 18 are in Appendix 16.

If the Review Panel discharges the patient from involuntary status (either inpatient or on leave), the hospital must notify the near relative using Form 17, Notification to Near Relative (Discharge of Involuntary Patient). Form 17 is in Appendix 16.

6.0 Review Panel Responsibility

The director is responsible for notifying the Review Panel of patients who have been on extended leave for 12 months. The board chair will examine the patient's file to determine if a Review Panel hearing should be held. The board chair can order a hearing if he/she concludes that the Review Panel will likely discharge the patient. If the board chair orders a hearing after reviewing the patient's file at the conclusion of a 12-month period of extended leave, the chair uses Form 18 to notify the near relative.

7.0 Scheduling

The Review Panel office will schedule the hearings. Section 25 (1) of the Act and section 6 of the Regulation require that requested hearings be held as follows:

- during the first period (one month) of detention, within 14 days after a completed Form 7, Application for Review Panel Hearing, is delivered to the Review Panel office;

- during the second period (one further month) of detention, within 14 days after a completed Form 7 is delivered to the Review Panel office;
- during the third period (three further months) of detention, within 28 days after a completed Form 7 is delivered to the Review Panel office;
- during the fourth and subsequent periods (six further months) of detention, within 28 days after a completed Form 7 is delivered to the Review Panel office, provided that 90 days have elapsed since the conclusion of any previous hearing.

Section 25 (3) of the Act gives the board chair authority to shorten the time period during the fourth or subsequent periods above. This may occur if the chair considers it to be in the best interests of the patient or where new information about the patient's detention becomes available.

8.0 Time and Place of Hearing

The Review Panel secretary will advise the chair, set a date, time and place for the hearing panel and communicate with the hospital and patient. Ordinarily, the hearing will be at the designated facility where the patient is located, in a room suitable for hearings. The room should be private and adequate in size to comfortably accommodate the panel members, the parties involved in the hearing, legal counsel and witnesses. A speaker phone should be nearby for the Review Panel's use.

When a patient is on extended leave, the hearing is usually scheduled in the community where the patient resides.

9.0 Appointment of Panel Members

Review Panel members are appointed from a board established by the Minister of Health and include a physician, a lawyer and a person who is neither a physician nor a lawyer. Normally the lawyer member is designated to chair the Review Panel hearing.

The physician on the panel is required to make, with the other panel members, a decision based on the evidence from the hearing. There should be no separate interviews with, or examinations of, the patient by the physician panel member prior to the hearing.

10.0 Legal Counsel

If they wish, the patient may be represented by a lawyer or advocate. The patient is responsible for making these arrangements. The facility does not require legal counsel.

The Mental Health Law Program of the Community Legal Assistance Society (CLAS) provides patients with information and assistance regarding Review Panels. The Mental Health Law Program can be contacted at (604) 685-3425 or toll free at 1 888 685-6222.

11.0 Evidence

11.1 COLLECTION OF EVIDENCE

Family members or others who wish to appear at a hearing or otherwise provide information in support of further detention of the patient should contact the attending physician. Those with information in support of the patient's discharge should contact the patient or the patient's lawyer or advocate.

Section 24.3 of the *Mental Health Act* provides a Review Panel with power to compel witnesses and order disclosure. This section of the Act states:

(1) At any time before or during a hearing, but before its decision, a Review Panel may make an order requiring a person

  (a) to attend an oral or electronic hearing to give evidence on oath or affirmation or in any other manner that is admissible and relevant to an issue in an application, or

  (b) to produce for the Review Panel or a party a document or other thing in their person's possession or control, as specified by the Review Panel, that is admissible and relevant to an issue in an application.

(2) The Review Panel may apply to the court for an order

  (a) directing a person to comply with an order made by the Review Panel under subsection (1), or

  (b) directing any directors and officers of a person to cause the person to comply with an order made by the Review Panel under subsection (1).

11.2 WHO PRESENTS EVIDENCE

The attending physician, the director or the director's designate present the evidence for the facility. A lawyer, agent, advocate, or the patient presents evidence for the patient. Family members and others may be witnesses for either the hospital or the patient. If neither party wishes to call them as a witness, Section 25 (2.4) of the Act says any person who satisfies the Review Panel that the person has a material interest in, or knowledge of, matters relevant to the hearing may give evidence or make submissions at the hearing.

11.3 WHAT IS PRESENTED

The following documents are usually presented as evidence:

- Admission/renewal certificates.
- Admission note by the physician.
- Specific notes made for presentation to the Review Panel by the attending physician, including a note summarizing the patient's history of hospitalization, as well as successful and unsuccessful treatment, and, if applicable, compliance with treatment plans in the community. In addition, the note should make an assessment of whether the patient is likely to comply with the treatment plan in the community.
- Current and relevant psychology, social work and nursing reports, doctors' progress notes/orders and psychiatric assessments from the file, including the patient's response to medication.

Evidence may be written or oral.

11.4 CRITERIA APPLIED BY THE PANEL

In considering whether the patient meets the criteria for continued hospitalization, the Review Panel must consider the patient's current functioning, as well as history of hospitalization and treatment compliance. All reasonably available evidence must be considered. The Review Panel must consider the likelihood that if discharged, the patient will comply with a treatment plan the physician considers likely to prevent involuntary hospitalization. The evidence is then used to decide if the section 22 criteria are met.

To reach a decision on an application regarding an involuntary patient, the Review Panel applies the section 1 definition of a "person with a mental disorder" and the criteria provided in section 22 of the Act. These criteria are that the patient:

- Is suffering from a disorder of the mind that seriously impairs the person's ability to react appropriately to their environment or to associate with others (definition from section 1 of the Act).
- Requires psychiatric treatment in or through a designated facility.
- Requires care, supervision and control in or through a designated facility to prevent the person's substantial mental or physical deterioration or for the person's own protection or the protection of others.
- Is unsuitable to be a voluntary patient.

Unless a majority of Review Panel members are satisfied by the evidence presented at the hearing that a patient meets all of the above criteria, the panel must find that the patient should be discharged under the *Mental Health Act*.

In the case of a person under age 16 admitted under section 20 on the request of a parent or guardian, the Review Panel must only decide if the person continues to meet the criteria set out in the Act for a "person with a mental disorder", which includes the need for psychiatric treatment.

11.5 DECISIONS AND NOTIFICATION TO NEAR RELATIVE OF DISCHARGE

Section 25 (2.8) of the Act requires that, within 48 hours after the hearing, a Review Panel must decide whether or not the patient's detention should continue. The decision is recorded on Form 8, Review Panel Determination. Reasons must be provided within 14 days from the decision. Usually, a Review Panel is able to come to a decision immediately following the hearing. Section 25 (2.9) of the Act requires that after the decision has been made, the panel must, without delay, deliver a copy of its decision to the director, the patient and the patient's lawyer or advocate. Where the decision is to discharge the patient, the director must do so. A near relative is to be advised of the patient's discharge by sending a copy of Form 17. Copies of Form 8 and Form 17 are in Appendix 16.

The reasons are usually recorded by the panel immediately after the hearing so the signatures of panel members can be easily obtained.

11.6 OTHER ISSUES

WITHDRAWAL

Section 25 (2.7) of the Act states that a patient may withdraw their request for a hearing at any time prior to the hearing. Although it is not required by the Regulation that the withdrawal request be written, the patient should be asked to sign a written request.

CONFIDENTIALITY OF HEARINGS

Section 25 (2.5) of the Act states that, unless the Review Panel orders otherwise, the hearing must be held in private.

LOCATION

Review Panels are usually held at the designated facility where the patient is located unless the patient is on extended leave.

The address and phone number of the Review Panel office:

Review Panel Office
Dogwood Building, Holly Drive
2601 Lougheed Highway
Coquitlam, BC V3C 4J2
Phone: (604) 524-7219 or 524-7220
Fax: (604) 524-7216

APPENDIX 8

ACCESS TO INVOLUNTARY PSYCHIATRIC ASSESSMENT AND TREATMENT

FIGURE 1 – ACCESS TO INVOLUNTARY PSYCHIATRIC ASSESSMENT AND TREATMENT (NO CRIMINAL INVOLVEMENT)

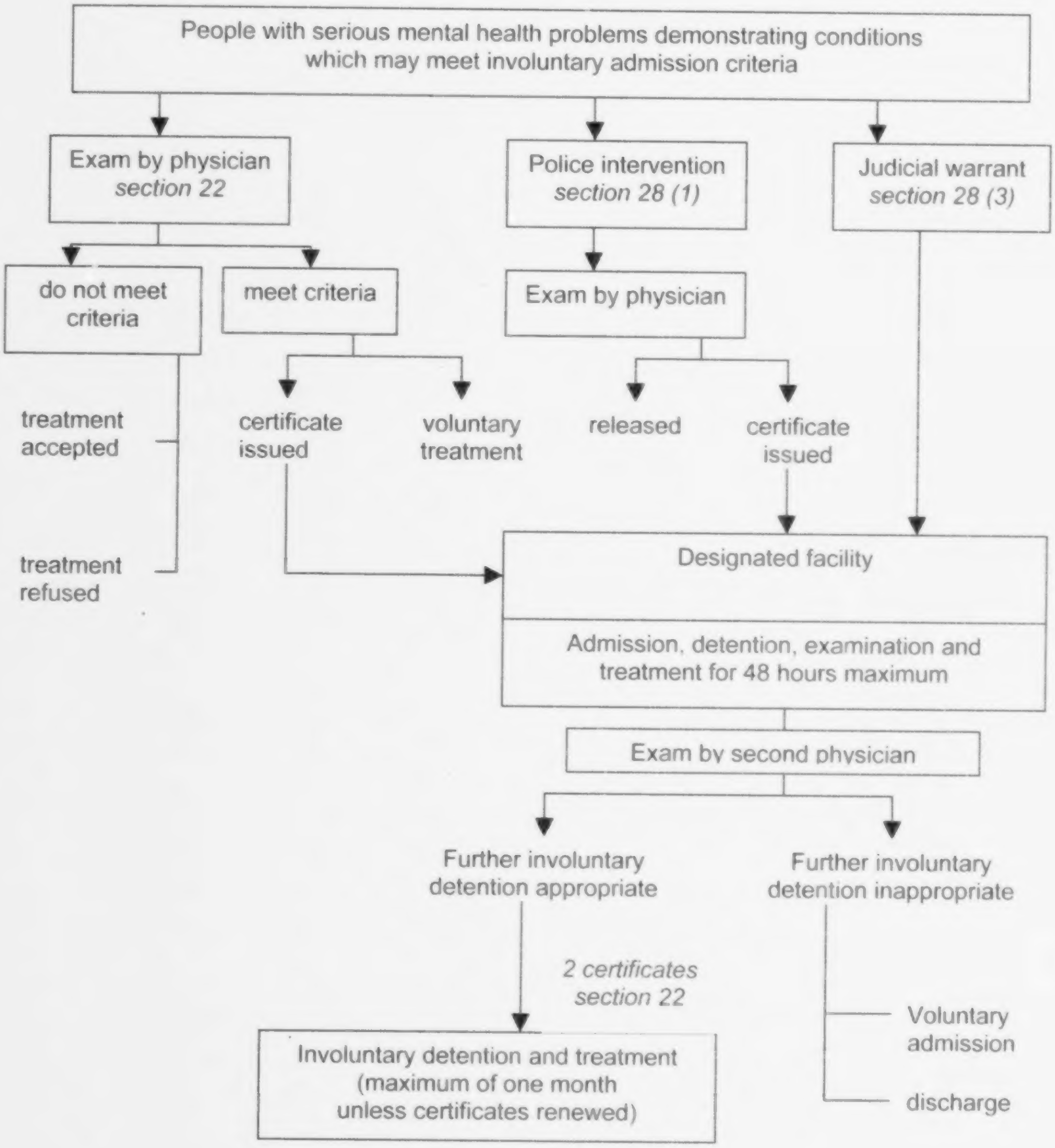
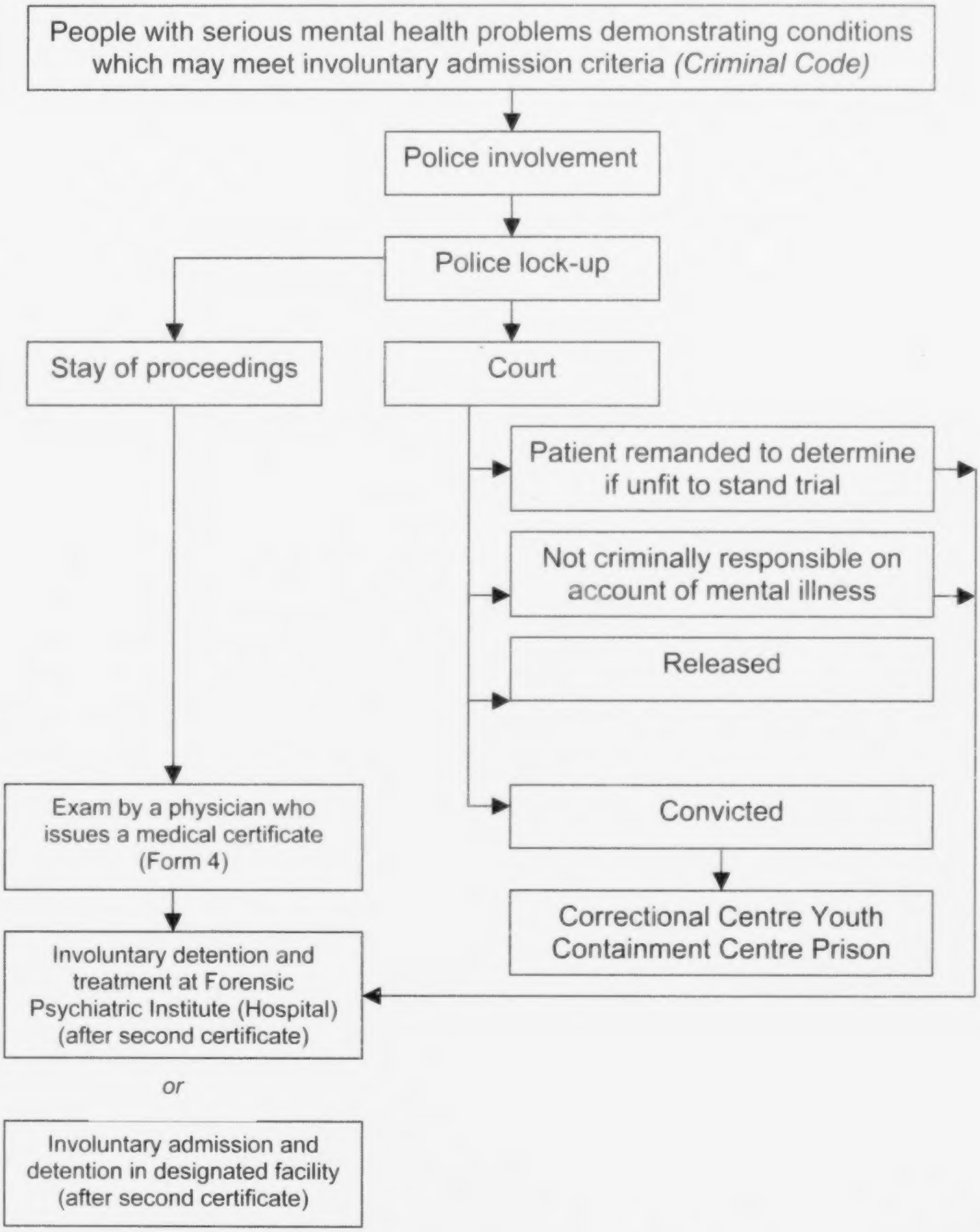

People with serious mental health problems demonstrating conditions which may meet involuntary admission criteria
Exam by physician
section 22
Police intervention
section 28 (1)
Judicial warrant
section 28 (3)
do not meet criteria
meet criteria
Exam by physician
treatment accepted
treatment refused
certificate issued
voluntary treatment
released
certificate issued
Designated facility
Admission, detention, examination and treatment for 48 hours maximum
Exam by second physician
Further involuntary detention appropriate
Further involuntary detention inappropriate
2 certificates section 22
Involuntary detention and treatment (maximum of one month unless certificates renewed)
Voluntary admission
discharge

FIGURE 2 – ACCESS TO INVOLUNTARY PSYCHIATRIC ASSESSMENT AND TREATMENT (CRIMINAL INVOLVEMENT)


People with serious mental health problems demonstrating conditions which may meet involuntary admission criteria *(Criminal Code)*
Police involvement
Police lock-up
Stay of proceedings
Court
Patient remanded to determine if unfit to stand trial
Not criminally responsible on account of mental illness
Released
Exam by a physician who issues a medical certificate (Form 4)
Convicted
Correctional Centre Youth Containment Centre Prison
Involuntary detention and treatment at Forensic Psychiatric Institute (Hospital) (after second certificate)
or
Involuntary admission and detention in designated facility (after second certificate)

APPENDIX 9

THE CRIMINAL JUSTICE SYSTEM AND MENTAL HEALTH SERVICES

When someone is arrested on a criminal charge, the following may occur:

1. In the lock-up a physician may be requested to determine whether the person meets the criteria for involuntary status under the *Mental Health Act* or otherwise requires treatment for a mental disorder.
2. A person capable of consenting to treatment can be voluntarily treated.
3. If a Medical Certificate has been completed, Crown Counsel may stay proceedings to enable the person to be taken for involuntary treatment to a designated facility that services the area where the person's residence is located.
4. The provision of options or referral alternatives from service agencies may preclude proceeding with criminal charges or the adjudication of criminal responsibility being proceeded with in the normal fashion.
5. If charges are pursued, a person may, after appearing in court, be released on bail with a condition of attending an outpatient forensic or non-forensic mental health clinic.
6. If detained in custody under the *Criminal Code* and if Medical Certificates under the *Mental Health Act* are completed, the person may be transferred for treatment to the Forensic Psychiatric Institute (Hospital) (FPH) in Port Coquitlam.
7. If there is doubt a charged person is fit to stand trial, a referral can be made by the court on an outpatient basis to a regional forensic clinic or for assessment, on an inpatient basis, to FPH.
8. During the assessment period, the person can be treated on a voluntary basis or, on an involuntary basis if medical certificates under the *Mental Health Act* are completed and the person is in custody at FPH.
9. If the person is unfit to stand trial, a judge can, under the *Criminal Code*, authorize treatment (for up to 60 days) to restore the person's fitness to stand trial.

10. If the person is found fit to stand trial, the court process continues. The court may, upon request, order an assessment of the person's mental state at the time of the alleged offence. An assessment may be done on an outpatient (regional forensic clinic or correctional facility) or an inpatient basis (FPH).

11. If found Not Criminally Responsible on Account of Mental Disorder (NCRMD), treatment can be administered through the consent for treatment provision of the *Mental Health Act* (section 31), if the person resides at FPH. If the person is conditionally released to the community, treatment can only occur on a voluntary basis.

12. A person found guilty of an offence may be voluntarily treated as a condition of imprisonment, parole or probation. A person serving a sentence in a provincial corrections facility can be transferred for treatment to FPH if the person meets the criteria for involuntary status under the *Mental Health Act*. A federal prisoner who meets the criteria for involuntary status would be transferred to the Regional Medical Centre (Pacific) at Abbotsford.

APPENDIX 10

AUTHORIZATION OF OTHERS BY THE DIRECTOR

1.0 Introduction

The *Mental Health Act* states that the director of a designated facility has the authority to make decisions with respect to patient admissions, treatment consent, leave and discharge. The director can authorize physicians or hospital staff to make these decisions.

Authorizations should be outlined in the facility's policies and be in writing, electronic or memo form. Authorizations can be verbal, although they should be recorded later. Authorizations can be made to named individuals or to a class of people, such as all physicians with admitting privileges or the senior nurse on duty.

In developing authorization procedures for a particular unit, it is essential to cover periods, such as weekends, when the named director is not available. Guidelines for authorization follow.

2.0 Appointment of the Director

Section 3 of the Regulation requires the health authority operating a designated facility to appoint a director. The board should appoint a director by resolution. The appointed director is usually a physician, although the Act does not require this.

Health authority is defined as:

1) A health authority or
2) any other governing body of a designated facility

3.0 Admissions

The director may authorize all physicians with admitting privileges and the senior nurse on duty to admit patients. The person exercising the director's authority to admit involuntary patients acts on the basis of the Medical Certificate(s).

4.0 Treatment Authorization for Involuntary Patients

Treatment is authorized by the director by signing Form 5, Consent for Treatment (Involuntary Patient). If the patient is capable and consents, the patient, witness and physician sign the form. If not, the director or designate signs.

Since treatment may have to be started at any time, day or night, a senior staff position on duty outside normal business hours should also have authorization to sign Form 5.

5.0 Renewal Certificates (Form 6)

The director can authorize physicians to complete renewal certificates.

6.0 Visit Leave and Extended Leave

All absences from the designated facility are authorized through section 37. The director or designate may authorize only physicians to grant leave.

The director or authorized physician must authorize the initial extended leave (Form 20, Leave Authorization). The director or physician may then authorize a named physician in the community to complete the renewal certificates (Form 6) and determine leave conditions. A new Form 20 would be completed when leave conditions change.

7.0 Transfers

Section 35 provides the director with authority to transfer a patient from one designated facility to another in cooperation with the director of the new designated facility receiving the transferred patient. This may occur where it is considered beneficial to the patient. Authorizations can be given to physicians or other staff to transfer a patient.

8.0 Discharges

Section 36 provides the director with authority for discharges. A hospital physician or, if a patient is on leave, a physician in the community may be authorized to grant discharges.

9.0 Unauthorized Absences

A physician and a senior staff person on duty should be authorized by the director to request the police or others to return a patient on unauthorized absence, directly or by completing Form 21, Director's Warrant (Apprehension of Patient). This is done in order to quickly initiate such action, if it is required.

APPENDIX 11

APPLYING TO A JUDGE FOR EXAMINATION OF A PERSON WITH AN APPARENT MENTAL DISORDER

1.0 Why Use the Court Process?

Sometimes it is not possible for family or others to persuade a person with an apparent mental disorder, who appears to require psychiatric inpatient treatment, to be examined by a physician. The examination determines the need for the person to be admitted to a psychiatric facility as a voluntary or an involuntary patient. In such situations, section 28 (3) of the *Mental Health Act* provides the option to apply to a judge or, if a judge is not available, to a justice of the peace for a warrant. The warrant provides the legal authority for police to take the person to be examined by a physician.

2.0 Completing Form 9

Form 9, Application for Warrant (Apprehension of Person with Apparent Mental Disorder for Purpose of Examination), has been designed to make it easy to state the reasons why a judge's warrant for an examination is required. It is helpful to describe the particular incident(s) or behavior of the person to be examined. Just state in your own words why you believe the examination is needed.

The judge, or justice of the peace (justice), will probably ask you additional questions when you meet at the courthouse to discuss your application. It is recommended that you, and perhaps others who have observed the behavior that is causing concern, keep notes of the patient's behavior and incidents that may have occurred. Notes about previous episodes of mental illness are also helpful. Take these notes with you to the court and be prepared to discuss them with the judge.

A copy of Form 9 may be obtained from your local mental health service, nearest hospital or the court itself. Anyone who has a copy of the Guide to the *Mental Health Act* can make a photocopy of Form 9 in Appendix 16.

If you are having problems completing Form 9, staff from either your local mental health service (listed in the blue pages of the phone directory under Health Authorities), hospital or the courthouse will be able to help you.

3.0 At the Courthouse

When you have obtained a copy of Form 9, or even if you can't obtain a copy of Form 9, phone the nearest provincial court to find out about the court's office hours. Assuming you can get to the court during office hours, it is best to go directly to the court house and explain to the reception desk staff why you are requesting to see a judge or, if a judge is not available, a justice of the peace. (Courts don't deal with these matters on a daily basis and it is easier to explain the urgency of the request in person rather than over the phone.) The local police will be able to tell you where to contact a local justice of the peace outside of the regular courthouse hours.

When you meet with the judge or justice, you will be asked to sign Form 9 and make a sworn statement. A judge or justice may allow you to make your application verbally, but only if they form the opinion there is a reasonable expectation of future harm to you if the application is made in writing.

4.0 Criteria Used by the Judge or Justice

The judge or justice will base their decision on the criteria contained in section 28 (3) of the Act. These criteria are that:

- The judge or justice must be satisfied that you, the applicant, have reasonable grounds to believe that the person to be examined is a person with a mental disorder who requires treatment, as an involuntary patient, in or through a designated [psychiatric] facility.
- The judge or justice must also be satisfied that the person to be examined requires admission and detention in a designated facility to prevent the person's substantial mental or physical deterioration or for the protection of the person or others and that the person cannot suitably be admitted as a voluntary patient.
- Finally, the judge or justice must be satisfied that it is not possible, without unreasonable delay, to have the patient examined by a physician. This means you must be able to provide information which indicates a real possibility of harm to the person to be examined and/or others.

5.0 Issuing the Warrant

If the judge or justice is satisfied that the above criteria are met, they may issue a warrant. This is done by completing Form 10, Warrant (Apprehension of Person with Apparent Mental Disorder). The judge or justice provides the warrant to the police. A copy of Form 10 is in Appendix 16.

The judge or justice may indicate on the form that access to the information supplied to support the issuing of the warrant is only to be provided to a person authorized by the designated facility.

6.0 Apprehending and Transporting the Person to be Examined

On receiving the warrant, police are authorized to apprehend and transport the person for examination by a physician at the nearest hospital with a designated psychiatric facility. The preferred situation is that the police first speak with you in order to have the fullest possible information about the person to be apprehended. This will improve the likelihood of the person's cooperation and minimize the element of dangerousness that may exist. Police may request the assistance of health personnel, such as paramedics, in transporting the person.

7.0 Admission to the Designated Facility

The order of the judge (or justice) is sufficient authority for the person to be involuntarily admitted for up to 48 hours. For a longer stay, two independent medical certificates are required.

APPENDIX 12

ROLE OF PARAMEDICS

Paramedics may be called upon to transport an involuntary patient under the *Mental Health Act*.

The British Columbia Ambulance Service develops resource manuals for paramedics which provide guidelines to assist in responding to calls for service. The guidelines are helpful, for example, in situations where there are safety issues and service calls should be coordinated with police.

1.0 Transportation of Patient on a Medical Certificate (Form 4)

Paramedics may be called by a physician or someone on a physician's behalf to transport a person to a designated facility when one Medical Certificate has been completed.

Before transporting the person to a designated facility, the paramedics need to ensure a Medical Certificate exists. A copy is not required.

The paramedic will perform their duties according to British Columbia Ambulance Service policy, as follows:

- respond to call for service;
- ensure the required Medical Certificate form is completed (Form 4, completed by a physician under the *Mental Health Act*);
- transport the person to the designated destination;
- ensure the person is safe and secure during transport;
- ensure their own safety; and
- if possible, allow for family members and personal effects to be transported.

2.0 Transportation of a Patient Being Transferred from One Designated Facility to Another

Section 35 of the *Mental Health Act* allows for transfer of a patient from one designated facility to another. The same process, noted above, applies.

3.0 Escort for Females

Section 19 of the *Mental Health Act* indicates that:

> "The person who requests or applies for the admission of a female person to a Provincial mental health facility must arrange for her to be accompanied by a near relative or a female person between the time of the request or application and her admission to a Provincial mental health facility."

The sending physician or someone on the physician's behalf will have to request that an escort be provided.

This requirement for an escort only applies to admissions to Provincial mental health facilities, such as Riverview Hospital (see Appendix 1).

This section does not apply to admissions made to psychiatric units or observation units in general hospitals. It does not apply when a female involuntary patient is transferred from a psychiatric unit to a Provincial mental health facility.

APPENDIX 13

FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY: FACT SHEET

Releasing Personal Health Information to Third Parties

Reader's Summary

This fact sheet provides guidelines for releasing clients' information to third parties, such as family or friends of the client or health care providers. The *Freedom of Information and Protection of Privacy Act* allows health care providers employed by a public body[1] (e.g. hospitals and publicly funded clinics) to disclose the personal information of clients to third parties under certain circumstances. Public bodies may release personal information to third parties if the client consents to the release. Public bodies may release necessary personal information to third parties without the consent of the client where disclosure is required for continuity of care or for compelling reasons if someone's health or safety is at risk.

Disclosure of Client Information by Health Care Providers

Health care providers are regularly required to make decisions on disclosure of information relevant to a person's health. This information is the client's personal health information. Clients often ask for access to their test results, assessments or progress notes. In addition, there may be circumstances when providers need to disclose client information to third parties outside this provider-client relationship.

Authority to Release Client Information to Third Parties

The *Freedom of Information and Protection of Privacy Act* (the Act) allows for disclosure of personal information:

1) to third parties inside and outside of Canada, if the client has consented to the release of the personal health information to the third party[2]; or
2) to third parties inside Canada if the disclosure is for
    - the purpose for which the personal information was originally obtained or collected; or
    - a use consistent with the purpose for which the personal information was originally obtained or collected[3] (see "consistent use" below); or
3) to third parties inside or outside of Canada if compelling circumstances exist that affect anyone's health or safety. Under this section of the Act, notification of disclosure must be mailed to the client[4].

Consistent Use

A use of personal information is considered to be consistent with the purpose for which the information was originally obtained or collected if the use:

1) has a reasonable and direct connection to that purpose; and
2) is necessary for performing the statutory duties of, or for operating a legally authorized program of, the public body that uses or discloses the information or causes it to be used or disclosed.

If a client's personal information was collected for health care purposes, public bodies may release necessary information to third parties for "continuity of care". This means public bodies may disclose personal information to health care professionals, family members, or to other persons, such as friends and relatives, involved in a client's care for the purpose of that care. The release of the information must be in the best interests of the health of the client.

Preserving Client Trust and Privacy

Although public bodies have authority to disclose personal information, they also have a responsibility to minimise invasion of client privacy. Wherever possible, consent for the release of personal information should be obtained from the client.

Each release of information must be considered on its merits, in keeping with the standard of reasonable clinical judgment. The provider must strike a balance between the need to share the client's information with a family member or other third party who is involved in the client's care and the need to safeguard the client's trust and privacy. In exercising his/her judgment on whether to release personal information to a third party, the health care provider should ask why the information needs to be released and consider the three grounds for release listed above.

It is recommended that health care providers explain the limits of confidentiality early in the provider-client relationship. When disclosing client information to third parties, document what information is being released, to whom it is being released, and the reason the third party "needs to know" the information.

There are no definitive rules regarding the release of personal information. Releases of personal information need to be considered on a case-by-case basis. A client's history, their health, and the care provided by the third party are mitigating factors which the health care provider needs to consider prior to disclosing any personal information.

Obtaining consent from the client is generally preferred when releasing any personal information to a third party. However, health care providers do encounter circumstances when consent is not viable. The examples below are a discussion of some of these circumstances. When disclosing information without consent, the health care provider must be confident the release of the information is in the client's best interests, is required for the continuity of care of the client, and only the information that is absolutely necessary is released to the third party.

Examples:

1) An adult with schizophrenia is being discharged from a psychiatric unit. Although she does not have a close relationship with her family, they do take an active role in ensuring her day-to-day needs for food and shelter are met, and they also monitor her health status. The client is suspicious and distrustful of her family members, and asks her clinician not to share any information about her with them.

In deciding whether or not to disclose the client's personal information to the family, the health care provider should consider whether the family's "need to know" outweighs the client's wishes. If the provider believes it is in the best interests of the client to disclose personal information to the family so they can provide care to the client, the health care provider may do so [section 33.2(a)]. The provider should exercise caution to ensure only necessary information is released. Reasons for disclosing the client's personal information should be recorded in the clinical file.

2) An adult is admitted to a hospital in Kelowna because he has been in a physical altercation. The clinician at the hospital determines the adult is from

Victoria, believes he has a mental illness and may be violent or dangerous. The clinician calls psychiatric units in Victoria to obtain confirmation of this diagnosis, and information about the patient's history, including the client's possible medications. The health care professionals at the psychiatric unit may release to the clinician in Kelowna for continuity of care [section 33.2(a)].

3) Parents have an adult son with a mental illness. The son lives in their basement and will not leave his room. Although the parents provide shelter and care for their son, they are in fear of him, and do not know what to do. The parents contact the hospital where their son has been hospitalized and his mental health worker.

   The hospital and the mental health worker may release the son's personal information which is necessary to assist the parents provide care to their son [section 33.2(a)]. The head of the health care body could also release information to the parents if there are compelling circumstances that affect the health or safety of the parents [section 33.1(1)(m)]. *

4) A father has an adult son with an addiction and a mental illness. The son has attempted suicide and has been committed involuntarily to a psychiatric unit. The psychiatric unit is only able to keep the son committed for a limited time, and wishes to refer the son to a detoxification service. The son refuses to go. The father would like to find out more about his son's condition to assist his son pursue ongoing therapy and counselling.

   If the son will not consent to releasing this information to his father, and the psychiatric unit believes the participation of the father is necessary to improve the son's condition, they may release pertinent information to the father [section 33.2(a)].

The relevant sections from Part 3, Division 2 of the Act are as follows

Part 3 - Protection of Privacy

Division 2 - Use and Disclosure of Personal Information by Public Bodies

Section 32 - Use of Personal Information

A public body must ensure that personal information in its custody or under its control is used only

(a) for the purpose for which that information was obtained or compiled, or for a use consistent with that purpose (see section 34),

(b) if the individual the information is about has identified the information and has consented, in the prescribed manner, to the use, or

(c) for a purpose for which that information may be disclosed to that public body under sections 33 to 36.

Section 33 - Disclosure of Personal Information

A public body must ensure that personal information in its custody or under its control is disclosed only as permitted under section 33.1 or 33.2.

Section 33.1 - Disclosure Inside or Outside of Canada

(1) A public body may disclose personal information referred to in section 33 inside or outside Canada as follows:

(a) in accordance with Part 2;

(b) if the individual the information is about has identified the information and consented, in the prescribed manner, to its disclosure inside or outside Canada, as applicable;

(c) in accordance with an enactment of British Columbia or Canada that authorizes or requires it disclosure;

(d) in accordance with a provision of a treaty, arrangement or agreement that

  (i) authorizes or requires its disclosure, and

  (ii) is made under an enactment of British Columbia or Canada;

(e) to a minister, if the information is immediately necessary for the performance of the duties of the minister;

(f) to an officer or employee of the public body or to a minister, if the information is immediately necessary for the protection of the health or safety of the officer, employee or minister;

(g) to the Attorney General or legal counsel for the public body, for use in civil proceedings involving the government or public body;

(h) to the minister responsible for the *Coroners Act* or a person referred to in section 36 of that Act, for the purposes of that Act;

(i) for the purposes of

  (i) collecting monies owing by an individual to the government of British Columbia or to a public body, or

  (ii) making a payment owing by the government of British Columbia or by a public body to an individual;

(j) in the case of the Insurance Corporation of British Columbia, if

  (i) the information was obtained or compiled by that public body for purposes of insurance provided by the public body, and

  (ii) disclosure of the information is necessary to investigate, manage or settle a specific insurance claim;

(k) for the purposes of

  (i) licensing or registration of motor vehicles or drivers, or

   (ii) verification of motor vehicle insurance, motor vehicle registration or drivers licences;

(l) for the purposes of licensing, registration, insurance, investigation or discipline of persons regulated inside or outside Canada by governing bodies of professions and occupations;

(m) if

   (i) the head of the public body determines that compelling circumstances exist that affect anyone's health or safety, and

   (ii) notice of disclosure is mailed to the last known address of the individual the information is about, unless the head of the public body considers that giving this notice could harm someone's health or safety;

(n) so that the next of kin or a friend of an injured, ill or deceased individual may be contacted;

(o) in accordance with section 36 (disclosure for archival or historical purposes).

(2) In addition to the authority under any other provision of this section or section 33.2, a public body that is a law enforcement agency may disclose personal information referred to in section 33:

(a) to another law enforcement agency in Canada, or

(b) to a law enforcement agency in a foreign country under an arrangement, a written agreement, a treaty or provincial or Canadian legislative authority.

(3) The minister responsible for this Act may, by order, allow disclosure outside Canada under a provision of section 33.2 in specific cases or specified circumstances, subject to any restrictions or conditions that the minister considers advisable.

Section 33.2 - Disclosure Inside Canada Only

A public body may disclose personal information referred to in section 33 inside Canada as follows:

(a) for the purpose for which it was obtained or compiled or for a use consistent with that purpose (see section 34);

(b) to comply with a subpoena, warrant or order issued or made by a court, person or body in Canada with jurisdiction to compel the production of information;

(c) to an officer or employee of the public body or to a minister, if the information is necessary for the performance of the duties of the officer, employee or minister;

(d) to an officer or employee of the public body or to a minister, if the information is necessary for the delivery of a common or integrated program or activity and for the performance of the duties of the officer, employee or minister to whom the information is disclosed;

(e) to an officer or employee of a public body or to a minister, if the information is necessary for the protection of the health or safety of the officer, employee or minister;

(f) to the auditor general or any other prescribed person or body for audit purposes;

(g) to a member of the Legislative Assembly who has been requested by the individual the information is about to assist in resolving a problem;

(h) to a representative of the bargaining agent, who has been authorized in writing by the employee whom the information is about, to make an inquiry;

(i) to a public body or a law enforcement agency in Canada to assist in a specific investigation

(i) undertaken with a view to a law enforcement proceeding, or

(ii) from which a law enforcement proceeding is likely to result;

(j) to the archives of the government of British Columbia or the archives of a public body, for archival purposes;

(k) in accordance with section 35 (disclosure for research or statistical purposes).

Effective Date: November 2004

For more information contact:

Ministry of Health
Information, Privacy and Records Branch
7-1 1515 Blanshard Street
Victoria, BC V8W 3C8
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[1] The *Freedom of Information and Protection of Privacy Act* does not apply to health care providers in private practice. It only applies to health care providers working for a public body. Private health care providers are subject to the provisions of the *Personal Information Protection Act* (PIPA).

[2] Section 33.1(1)(b) of the Act.

[3] Section 33.2(a) of the Act.

[4] Section 33.1(1)(m) of the Act.

- Any time Section 33.1(1)(m) of the Act is used, notification of this disclosure must be given to the individual whom the information is about. The requirement for notification does not apply to Section 33.2(a).

APPENDIX 14

MENTAL HEALTH ACT

BRITISH
COLUMBIA

Mental Health Act

R.S.B.C. 1996, CHAPTER 288

[Current to last amendment, April 4, 2005]

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MENTAL HEALTH ACT

CHAPTER 288

[Current to last amendment, April 4, 2005]

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PART 1 – INTERPRETATION

Definitions

1 In this Act:

"approved home" means a home selected and approved under the regulations made under this Act;

"chair" means the chair appointed under section 24.1 (1) (a);

"court" means the Supreme Court;

"designated facility" means a Provincial mental health facility, psychiatric unit or observation unit;

"director" means a person appointed under the regulations to be in charge of a designated facility and includes a person authorized by a director to exercise a power or carry out a duty conferred or imposed on the director under this Act or the *Patients Property Act;*

"father" includes the husband of the mother of a person with a mental disorder;

"mother" includes the wife of the father of a person with a mental disorder;

"near relative" means a grandfather, grandmother, father, mother, son, daughter, husband, wife, brother, sister, half brother or half sister, friend, caregiver or companion designated by patient and includes the legal guardian of a minor and a representative under an agreement made under the *Representation Agreement Act* and a committee having custody of the person of a patient under the *Patients Property Act;*

"observation unit" means a public hospital or a part of it designated by the minister as an observation unit;

"patient" means a person who, under this Act,

(a) is receiving care, supervision, treatment, maintenance or rehabilitation, or

(b) is received, detained or taken charge of as a person with a mental disorder or as apparently a person with a mental disorder;

"person with a mental disorder" means a person who has a disorder of the mind that requires treatment and seriously impairs the person's ability

(a) to react appropriately to the person's environment, or

(b) to associate with others;

"physician" means a medical practitioner;

"private mental hospital" means an establishment licensed under section 5;

"Provincial mental health facility" means a Provincial mental health facility designated under this Act;

"psychiatric unit" means a public hospital or a part of it designated by the minister as a psychiatric unit;

"public hospital" means an institution designated as a hospital under section 1 of the *Hospital Act;*

"resident of British Columbia" means a person who has resided in British Columbia for a period determined by the Lieutenant Governor in Council;

"review panel" means a review panel established under section 24.1 (2);

"society" means a society incorporated or registered under the *Society Act* to establish or operate facilities or services designed for the mental welfare of residents of British Columbia.

"treatment" means safe and effective psychiatric treatment and includes any procedure necessarily related to the provision of psychiatric treatment.

PART 2 – ADMINISTRATION

Establishment of facilities and services

2 The Lieutenant Governor in Council may establish and maintain facilities and services for the examination, diagnosis and treatment of persons with a mental disorder and the rehabilitation of patients and for that purpose may, by order, authorize the minister, for the government, to acquire, manage and operate property.

Designation of mental health facilities

3 (1) The minister may designate a building or premises as a Provincial mental health facility.

(2) The minister may designate a public hospital or a part of it, not being a Provincial mental health facility, as an observation unit or a psychiatric unit.

Transfer of facilities

4 (1) The Lieutenant Governor in Council may by order transfer a Provincial mental health facility or service or a part of it to a society.

(2) An order under subsection (1) must designate the following:

(a) the conditions of the transfer of the property that constitutes the Provincial mental health facility or service or part of it;

(b) the number of persons who are to be appointed to the board of management of the society by the Lieutenant Governor in Council;

(c) the requirements of inspection.

(3) An order under subsection (1) must give any necessary direction for the transfer of officers and employees who are public servants under the *Public Service Act* from the Provincial mental health facility to the society.

(4) An order under subsection (1) may direct that, despite the transfer, the officers and employees continue in the public service of British Columbia.

Licensing of private mental health facilities

5 (1) On application, the Lieutenant Governor in Council may license as a private mental health facility

(a) any private hospital licensed under the *Hospital Act*, and

(b) any community care facility licensed under the *Community Care and Assisted Living Act*.

(2) A person must not receive a person with a mental disorder into or cause or permit a person with a mental disorder to remain in a private house for gain or payment, unless the house is licensed under subsection (1).

Persons entitled to service

6 Subject to sections 12 and 18, every resident of British Columbia is entitled to receive service and accommodation in the facilities provided under this Act in accordance with this Act and its regulations.

7 [Repealed 1997-23-23.]

Powers and duties of directors

8 A director must ensure

(a) that each patient admitted to the designated facility is provided with professional service, care and treatment appropriate to the patient's condition and appropriate to the function of the designated facility and, for those purposes, a director may sign consent to treatment forms for a patient detained under section 22, 28, 29, 30 or 42,

(b) that standards appropriate to the function of the designated facility are established and maintained, and

(c) if in charge of a Provincial mental health facility, that the orders and directives of the minister are observed and performed.

Charges for care and treatment

9 (1) The Lieutenant Governor in Council may prescribe daily charges for care, treatment and maintenance provided in a Provincial mental health facility.

(2) The Lieutenant Governor in Council may by regulation exempt a class of patient from the prescribed daily charges.

Assessment committee

10 (1) The Lieutenant Governor in Council may appoint an assessment committee, consisting of 3 members, who hold office during pleasure and without remuneration.

(2) The assessment committee may prospectively or retrospectively reduce or cancel charges for the care, treatment and maintenance of a patient.

Guardians and committees

11 (1) A guardian, committee or other person liable for payment for a patient's care, treatment or maintenance must, on demand from the director of a Provincial mental health facility in which the patient is or has been receiving care, treatment or maintenance, make payments to the director in accordance with the rates set under this Act.

(2) The director may demand from a guardian, committee or other person liable to pay for a patient's care, treatment or maintenance any sum due at any time and may in default of payment sue on behalf of the government for the recovery of the sum in a court of competent jurisdiction.

(3) An action under this section must be taken in the name of the director.

Admissions from penitentiaries

12 The director of every Provincial mental health facility must ensure that no person with a mental disorder is admitted into any Provincial mental health facility from a penitentiary, prison, jail, reformatory or institution under the jurisdiction and administration of Canada unless the government of Canada, by or through an officer having authority to act on its behalf, undertakes to pay all charges for care, treatment and maintenance of that person.

Reciprocal arrangements with other provinces

13 With the approval of the Lieutenant Governor in Council, the minister may, on behalf of the government, enter into or cancel a reciprocal arrangement with the government of any other province of Canada for the assumption of all or part of the charges incurred by a resident of one province hospitalized in a public mental hospital or provincial mental health facility in another.

Reciprocal arrangements with Canada

14 The Lieutenant Governor in Council may, on behalf of the government, enter into or cancel an agreement with Canada for the sharing of costs of care and treatment of persons with a mental disorder.

Transportation of patients

15 A person who is being transported to a designated facility for admission and who is not detained or being transported under the *Criminal Code* or under section 29 must be kept separate from any person who is detained or being transported under the *Criminal Code* or under section 29.

Protection from liability for certain actions

16 A person is not liable in damages as the result of doing any of the following in good faith and with reasonable care:

(a) making an application or laying an information;

(b) requesting that a person be admitted to, or admitted to and detained in, a designated facility;

(b.1) if the person is the director, admitting a patient to the designated facility under section 20 (1) (a) (ii) on the basis of a physician's opinion or continuing the admission and treatment of the patient on the basis of a report made under section 20 (4);

(b.2) if the person is the director, admitting a patient to the designated facility and detaining the patient on the authority of a medical certificate or a warrant or report or determination made under section 24 or 25;

(b.3) if the person is the director, authorizing treatment or signing a consent to treatment form;

(c) signing a medical certificate or making a report if the person is a physician;

(d) making an order if the person is a justice of the court;

(e) issuing a warrant if the person is a judge of the Provincial Court, a justice of the peace or a director;

(f) apprehending, transporting or taking charge of a person on the authority of

  (i) a medical certificate, or

  (ii) if a peace officer, a warrant;

(f.1) if a police officer or constable, apprehending a person under section 28 (1);

(g) [Repealed 2004-45-116.]

(h) if a director, releasing a patient under section 37, transferring or accepting the transfer of a patient under section 35 or 38 or recalling a patient under section 39 in a manner not contrary to the regulations;

(i) providing in a manner not contrary to the regulations the care, supervision, treatment, maintenance or rehabilitation of a patient on leave or transferred to an approved home under section 37 or 38.

Offence

17 (1) A person commits an offence punishable under the *Offence Act* who

(a) assists a patient to leave or to attempt to leave a designated facility without proper authority,

(b) does or omits to do an act to assist a patient in leaving or attempting to leave a designated facility without proper authority, or

(c) incites or counsels a patient to leave a designated facility without proper authority.

(2) A person employed in a designated facility or a private mental hospital, or any other person having charge of a patient, who ill treats, assaults or wilfully neglects a patient commits an offence punishable under the *Offence Act*.

PART 3 – ADMISSION AND DETENTION OF PATIENTS

When persons are not to be admitted

18 Despite anything in this Act, a director or person who has authority to admit persons to a Provincial mental health facility must not admit a person to a Provincial mental health facility if

(a) suitable accommodation is not available within the Provincial mental health facility for the care, treatment and maintenance of the patient, or

(b) in the opinion of the director or person who has authority to admit persons to the Provincial mental health facility, the person is not a person with a mental disorder or is a person who, because of the nature of his or her mental disorder, could not be cared for or treated appropriately in the facility.

Admission of female person

19 The person who requests or applies for the admission of a female person to a Provincial mental health facility must arrange for her to be accompanied by a near relative or a female person between the time of the request or application and her admission to a Provincial mental health facility.

Voluntary admissions

20 (1) A director may admit any person to the designated facility

(a) if the person

(i) has reached 16 years of age and requests admission, or

(ii) is under 16 years of age and a parent or guardian of the person requests that the person be admitted, and

(b) if the director is satisfied that the person has been examined by a physician who is of the opinion that the person is a person with a mental disorder.

(2) A patient admitted under this section who is under 16 years of age must, unless discharged from the designated facility, be examined at the following times by a physician authorized for the purpose by the director:

(a) within each of the first 2 months following the date the patient was admitted;

(b) within 3 months of the second examination required by paragraph (a);

(c) within 6 months of the examination required by paragraph (b);

(d) within each successive 6 month period following the examination required by paragraph (c).

(3) If the physician who examines a patient under subsection (2) is of the opinion that the patient is not a person with a mental disorder, the director must discharge that patient.

(4) If the physician who examines a patient under subsection (2) is of the opinion that the patient is a person with a mental disorder, the physician must record a written report of the examination and include in it the reasons for the opinion.

(5) A nurse in charge of a ward in a designated facility must

(a) ensure that each patient in the ward who was admitted under this section is enabled to communicate without delay to the director any desire that the patient may form to leave the designated facility, and

(b) on learning that a patient in the ward who was admitted under this section desires to leave the designated facility, promptly notify the director of that desire.

(6) A patient admitted under this section must be discharged by the director

(a) if the patient has reached 16 years of age and the director is notified in any manner that the patient desires to be discharged,

(b) if the patient is under 16 years of age and the director is notified in any manner that a parent or guardian requests that the patient be discharged, or

(c) if the patient is under 16 years of age and the director is notified by a physician, authorized by the director for the purpose of this section, that the patient has been examined by the physician and found not to be a person with a mental disorder.

(7) Subsections (5) and (6) do not apply if the requirements for detention of the patient under section 22 (1) have been fulfilled.

(8) A person who has reached 16 years of age and who has been admitted to a designated facility has, despite any rule of law relating to minors, the capacity to make the request and to make an agreement for payment for maintenance and treatment in the designated facility and to authorize the person's treatment in the designated facility.

Review panel for person under 16 years of age

21 (1) If a patient admitted to a designated facility under section 20 (1) (a) (ii) desires to leave the facility and is under 16 years of age, section 25 applies as though the patient had been admitted under section 22 if

(a) the patient requests the discharge, and

(b) no person entitled to apply under section 20 (1) (a) (ii) for the patient's admission requests the discharge under section 20 (6) (b).

(2) For the purposes of subsection (1) (b), the director must discharge the patient if the patient is found not to be a person with a mental disorder.

Involuntary admissions

22 (1) The director of a designated facility may admit a person to the designated facility and detain the person for up to 48 hours for examination and treatment on receiving one medical certificate respecting the person completed by a physician in accordance with subsections (3) and (4).

(2) On receipt by the director of a second medical certificate completed by another physician in accordance with subsections (3) and (5) respecting the patient admitted under subsection (1), the detention and treatment of that patient may be continued beyond the 48 hour period referred to in subsection (1).

(3) Each medical certificate under this section must be completed by a physician who has examined the person to be admitted, or the patient admitted, under subsection (1) and must set out

(a) a statement by the physician that the physician

(i) has examined the person or patient on the date or dates set out, and

(ii) is of the opinion that the person or patient is a person with a mental disorder,

(b) the reasons in summary form for the opinion, and

(c) a statement, separate from that under paragraph (a), by the physician that the physician is of the opinion that the person to be admitted, or the patient admitted, under subsection (1)

(i) requires treatment in or through a designated facility,

(ii) requires care, supervision and control in or through a designated facility to prevent the person's or patient's substantial mental or physical deterioration or for the protection of the person or patient or the protection of others, and

(iii) cannot suitably be admitted as a voluntary patient.

(4) A medical certificate referred to in subsection (1) is not valid unless both it and the examination it describes are completed not more than 14 days before the date of admission.

(5) A second medical certificate referred to in subsection (2) is not valid unless both it and the examination it describes are completed within the 48 hour period following the time of admission.

(6) A medical certificate completed under subsection (1) in accordance with subsections (3) and (4) is authority for anyone to apprehend the person to be admitted, and for the transportation, admission and detention for treatment of that person in or through a designated facility.

(7) A patient admitted under subsection (1) to an observation unit must be transferred to a Provincial mental health facility or psychiatric unit within the prescribed period after a second medical certificate is received under subsection (2) by the director of the observation unit unless the patient is

- (a) discharged, or
- (b) released on leave or transferred to an approved home under section 37 or 38.

Duration of detention

23 A patient admitted under section 22 may be detained for one month after the date of the admission, and the patient must be discharged at the end of that month unless the authority for the detention is renewed in accordance with section 24.

Review of detention

24 (1) Unless the patient has previously been discharged, authority for the detention of a patient may be renewed under this section as follows:

- (a) from the end of the period referred to in section 23 for a further period of one month;
- (b) from the end of any period of renewal under paragraph (a) for a further period of 3 months;
- (c) from the end of any period of renewal under paragraph (b) for a further period, or further successive periods, of 6 months.

(2) During

- (a) every one month period referred to in section 23,
- (b) every further one month period referred to in subsection (1) (a), and
- (c) the last month of every 3 month or 6 month period referred to in subsection (1) (b) or (c),

the director or a physician authorized by the director must examine the patient and either discharge the patient or record a written report of the examination and include in it the reasons of the director or physician for concluding that section 22 (3) (a) (ii) and (c) continues to describe the condition of the patient.

(2.1) An examination under subsection (2) must include

- (a) consideration of all reasonably available evidence concerning the patient's history of mental disorder including

(i) hospitalization for treatment, and

(ii) compliance with treatment plans following hospitalization, and

(b) an assessment of whether there is a significant risk that the patient, if discharged, will as a result of mental disorder fail to follow the treatment plan the director or physician considers necessary to minimize the possibility that the patient will again be detained under section 22.

(2.2) If an examination under subsection (2) concludes that section 22 (3) (a) (ii) and (c) continues to describe the condition of the patient, the director or physician must renew under subsection (2) the authority for the detention of that patient.

(3) The written report referred to in subsection (2) is a renewal of the authority for the detention of the patient referred to in that subsection.

Board and review panels

24.1 (1) The minister may establish a board consisting of the following members appointed after a merit based process:

(a) a chair appointed by the minister;

(b) members appointed by the minister after consultation with the chair.

(2) From among the members of the board, the chair may establish one or more review panels to conduct hearings and for each review panel may

(a) specify the number of its members,

(b) appoint its members, and

(c) designate a member to chair the panel.

(3) A review panel must include

(a) a medical practitioner,

(b) a member in good standing of the Law Society of British Columbia or a person with equivalent training, and

(c) a person who is not a medical practitioner or a lawyer.

(4) For matters heard under this Act by review panels, the chair may

(a) schedule the times the matters will be heard,

(b) assign a matter for hearing to a review panel,

(c) reassign a matter for hearing from one review panel to another review panel, or

(d) schedule 2 or more review panels to hear separate matters at the same time.

Application of *Administrative Tribunals Act*

24.2 Sections 1 to 10, 11, 13 to 15, 18 to 20, 26 (5) to (7) and (9), 27, 30, 32, 35, 36, 38, 39, 40 (1) and (2), 44, 48, 49, 55 to 57, 59, 60 (a) and (b) and 61 of the *Administrative Tribunals Act* apply to the board and members of review panels.

Power to compel witnesses and order disclosure

24.3 (1) At any time before or during a hearing, but before its decision, a review panel may make an order requiring a person

(a) to attend an oral or electronic hearing to give evidence on oath or affirmation or in any other manner that is admissible and relevant to an issue in an application, or

(b) to produce for the review panel or a party a document or other thing in the person's possession or control, as specified by the review panel, that is admissible and relevant to an issue in an application.

(2) The review panel may apply to the court for an order

(a) directing a person to comply with an order made by the review panel under subsection (1), or

(b) directing any directors and officers of a person to cause the person to comply with an order made by the review panel under subsection (1).

Hearing by review panel

25 (1) A patient detained under section 22 is entitled, at the request of the patient or a person on the patient's behalf, to a hearing by a review panel

(a) within a prescribed time after the commencement of a one month period, or further one month period, referred to in section 23 or in section 24 (1) (a),

(b) within a prescribed time after the commencement of a 3 month period referred to in section 24 (1) (b), or

(c) during any 6 month period referred to in section 24 (1) (c), within a prescribed time after 90 days after the conclusion of any previous hearing.

(1.1) If a patient has been on leave or transferred to an approved home under section 37 or 38 for 12 or more consecutive months and a hearing under this section has not been requested or held within that period, the chair appointed under section 24.1 (1) (a) must review the patient's treatment record and, if satisfied from this record that there is a reasonable likelihood that the patient would be discharged following a hearing under this section, must order that a hearing under this section be held.

(2) The purpose of a hearing under this section is to determine whether the detention of the patient should continue because section 22 (3) (a) (ii) and (c) continues to describe the condition of the patient.

(2.1) A hearing by a review panel must include

(a) consideration of all reasonably available evidence concerning the patient's history of mental disorder including

(i) hospitalization for treatment, and

(ii) compliance with treatment plans following hospitalization, and

(b) an assessment of whether there is a significant risk that the patient, if discharged, will as a result of mental disorder fail to follow the treatment plan the director or a physician authorized by the director considers necessary to minimize the possibility that the patient will again be detained under section 22.

(2.2) Despite any defect or apparent defect in the authority for the initial or continued detention of a patient detained under section 22, a review panel must conduct a hearing and determine whether the detention should continue because the factors in section 22 (3) (a) (ii) and (c) continue to describe the condition of the patient.

(2.3) A review panel may proceed with a hearing

(a) despite a defect or apparent defect in any form required under this Act, and

(b) whether or not the patient has been transferred under section 22 (7) of this Act.

(2.4) A person who satisfies the review panel that he or she has a material interest in or knowledge of matters relevant to the hearing may give evidence or make submissions at the hearing.

(2.5) Unless the review panel orders otherwise, the hearing must be held in private.

(2.6) The chair of a review panel may

(a) exclude the patient from attendance at the hearing or any part of it, but only if the chair of the review panel is satisfied that the exclusion is in the best interests of the patient, or

(b) make orders respecting the taking, hearing or reproduction of evidence as the chair of the review panel considers necessary to protect the interests of the patient or any witness.

(2.7) At any time before a hearing begins, a patient may withdraw the request for the hearing.

(2.8) The review panel must issue a determination described in subsection (2) no later than 48 hours after the hearing is completed and must issue its reasons no later than 14 days after the determination has been issued.

(2.9) After a review panel has made a determination referred to in subsection (2.8), the chair of the review panel must, without delay, deliver a copy of the determination to the director and to the patient or the patient's counsel or agent, and if the patient is to be discharged the director must discharge the patient.

(3) The chair appointed under section 24.1 (1) (a) may shorten the time period in subsection (1) (c) if

(a) the chair considers it to be in the best interests of the patient, or

(b) new information relative to the patient's detention has become available.

(4) [Repealed 2004-45-118.]

(4.1) If the hearing under subsection (2) concludes that section 22 (3) (a) (ii) and (c) continues to describe the condition of the patient, the review panel must determine under subsection (2) that the detention of the patient be continued.

(5) to (8) [Repealed 2004-45-118.]

(9) Records of the proceedings of a hearing must be kept by the review panel office for at least one year.

Amendment to final decision

25.1 (1) If a party applies or on the review panel's own initiative, the review panel may amend a final decision to correct any of the following:

(a) a clerical or typographical error;

(b) an accidental or inadvertent error, omission or other similar mistake;

(c) an arithmetical error made in a computation.

(2) Unless the review panel determines otherwise, an amendment under subsection (1) must not be made more than 30 days after all parties have been served with the final decision.

(3) Within 30 days of being served with the final decision, a party may apply to the review panel for clarification of the final decision and the review panel may amend the final decision only if the review panel considers that the amendment will clarify the final decision.

(4) The review panel may not amend a final decision other than in the circumstances described in subsections (1) to (3).

(5) This section must not be construed as limiting the review panel's ability, on its own initiative or at the request of a party, to reopen an application in order to cure a jurisdictional defect.

26 and **27** [Repealed 1998-35-14.]

Emergency procedures

28 (1) A police officer or constable may apprehend and immediately take a person to a physician for examination if satisfied from personal observations, or information received, that the person

(a) is acting in a manner likely to endanger that person's own safety or the safety of others, and

(b) is apparently a person with a mental disorder.

(2) A person apprehended under subsection (1) must be released if a physician does not complete a medical certificate in accordance with section 22 (3) and (4).

(3) Anyone may apply to a judge of the Provincial Court or, if no judge is available, to a justice of the peace respecting a person if there are reasonable grounds to believe that section 22 (3) (a) (ii) and (c) describes the condition of the person.

(4) On application under subsection (3), the judge or justice may issue a warrant in the prescribed form if satisfied that

(a) the applicant has reasonable grounds to believe that subsection (3) applies to the person respecting whom the application is made, and

(b) section 22 cannot be used without unreasonable delay.

(5) A warrant issued under subsection (4) is authority for the apprehension of the person to be admitted and for the transportation, admission and detention of that person for treatment in or through a designated facility.

(6) On being admitted as described in subsection (5), a patient must be discharged at the end of 48 hours detention unless the director receives 2 medical certificates as described in section 22 (3).

(7) On the director receiving 2 medical certificates as described in subsection (6), section 22 (6) and (7) applies to the patient.

Prisoners and youth custody centre inmates

29 (1) On receiving 2 medical certificates completed in accordance with section 22 concerning the mental condition of a person imprisoned or detained in

(a) a correctional centre,

(b) a youth custody centre, or

(c) a prison or lockup operated by a police force or police department or by a designated policing unit or designated law enforcement unit, as those terms are defined in section 1 of the *Police Act*,

the Lieutenant Governor in Council may order the removal of the person to a Provincial mental health facility.

(2) When an order is made under subsection (1), the person in charge of the correctional centre, youth custody centre, prison or lockup must, in accordance with the order, cause the person to be transported to the Provincial mental health facility named in the order and send to the director of the Provincial mental health facility copies of the medical certificates.

(3) A person transported to a Provincial mental health facility under subsection (2) must be detained in that or any other Provincial mental health facility the Lieutenant Governor in Council may order until the person's complete or partial recovery or until other circumstances justifying the person's discharge from the Provincial mental health facility are certified to the satisfaction of the Lieutenant Governor in Council, who may then order the person

(a) back to imprisonment or detention if then liable to imprisonment or detention, or

(b) to be discharged.

(4) On receiving 2 medical certificates completed in accordance with section 22 concerning the mental condition of a person imprisoned or detained in

(a) a correctional centre,

(b) a youth custody centre, or

(c) a prison or lockup operated by a police force or police department or by a designated policing unit or designated law enforcement unit, as those terms are defined in section 1 of the *Police Act*,

the person in charge of the correctional centre, youth custody centre, prison or lockup may authorize the transfer of the person to a Provincial mental health facility.

(5) The director of a Provincial mental health facility may admit to the facility the person authorized to be transferred under subsection (4) if the director receives copies of the 2 medical certificates from the person in charge of the correctional centre, youth custody centre, prison or lockup.

(6) A person who is authorized to be transferred and is admitted under subsection (4) must be detained in the Provincial mental health facility until the person's complete or partial recovery, or until other circumstances justifying the person's discharge from the facility are certified to the satisfaction of the director, who must,

(a) if the person is not liable to further imprisonment or detention, discharge the person, or

(b) if the person is liable to further imprisonment or detention, return the person to the correctional centre, youth custody centre, prison or lockup from which the person was transferred.

(7) If a person is detained in a Provincial mental health facility under subsection (3) or (6), the director may authorize that the person receive care and psychiatric treatment appropriate to the person's condition.

(8) Sections 23 to 25 apply to the detention of a patient admitted under subsection (4) and subsection (6) (a) or (b) applies to a patient who is discharged under sections 23 to 25.

(9) Section 33 applies to the transfer or admission of a person to a Provincial mental health facility under subsection (4), and subsection (6) (a) or (b) applies to a patient who is discharged under section 33.

Detention under *Criminal Code*

30 A person who, under the *Criminal Code*, is found not criminally responsible on account of mental disorder or is found unfit on account of mental disorder to stand trial, and who is ordered to be detained in a Provincial mental health facility, must receive care and treatment appropriate to the condition of the person as authorized by the director.

Deemed consent to treatment and request for a second opinion

31 (1) If a patient is detained in a designated facility under section 22, 28, 29, 30 or 42 or is released on leave or is transferred to an approved home under section 37 or 38, treatment authorized by the director is deemed to be given with the consent of the patient.

(2) A patient to whom subsection (1) applies, or a person on the patient's behalf, may request a second medical opinion on the appropriateness of the treatment authorized by the director once in each of the following periods:

(a) a one month period referred to in section 23 or 24 (1) (a);

(b) a 3 month period referred to in section 24 (1) (b);

(c) a 6 month period referred to in section 24 (1) (c).

(3) On receipt of a second medical opinion prepared as described in subsection (2), the director must consider whether changes should be made in the authorized treatment for the patient and authorize changes the director considers should be made.

Direction and discipline of patients

32 Every patient detained under this Act is, during detention, subject to the direction and discipline of the director and the members of the staff of the designated facility authorized for that purpose by the director.

Application to court for discharge

33 (1) In this section:

"certificate" means

(a) a request in writing made under section 20 (1) (a) (ii), or a report made under section 20 (4) respecting a patient admitted under section 20 (1) (a) (ii),

(b) a medical certificate completed in accordance with section 22 (1) or (2), or a report or determination made under section 24 or 25, or

(c) a warrant under section 28, 39 or 41;

"patient" means

(a) a person whose admission is requested, or a patient who is admitted, under section 20 (1) (a) (ii),

(b) a patient who is detained under section 22, 28, or 42 or whose detention is renewed or continued under section 24 or 25, or

(c) a person or patient for whom a medical certificate has been completed as required under section 22 (1), or a warrant has been issued under section 28, 39 or 41, and who has not been apprehended and admitted or returned to a designated facility in consequence;

"psychiatrist" means a physician who is recognized by the College of Physicians and Surgeons of British Columbia as being a specialist in psychiatry.

(2) A patient, or a person on behalf of the patient, who believes that there is not sufficient reason or legal authority for a certificate respecting the patient may apply to the court for an order under subsection (8) (a), (b) or (c).

(3) Nothing in this section affects the right of a patient or other person to apply for a writ of habeas corpus or other prerogative writ.

(4) On hearing an application under subsection (2), the court may review the evidence, including

- (a) all records relating to the patient's admission to or detention in or through a designated facility, and
- (b) further evidence it considers relevant.

(5) On hearing an application under subsection (2) concerning a patient detained under this Act, the court must

- (a) consider all reasonably available evidence concerning the patient's history of mental disorder including
  - (i) hospitalization for treatment, and
  - (ii) compliance with treatment plans following hospitalization, and
- (b) make an assessment of whether there is a significant risk that the patient, if discharged, will as a result of mental disorder fail to follow the treatment plan the director or a physician authorized by the director considers necessary to minimize the possibility that the patient will again be detained under section 22.

(6) If the review under subsection (4) concludes that section 22 (3) (a) (ii) and (c) continues to describe the condition of the patient, the court must conclude that there is sufficient reason for the certificate.

(7) If satisfied that there is sufficient reason and legal authority for the certificate, the court must reject the application made under subsection (2).

(8) If not satisfied that there is sufficient reason or legal authority for the certificate, the court may make any of the following orders:

- (a) that the patient not be apprehended, transported or admitted to a designated facility under the certificate that gave rise to the application under this section;
- (b) that the patient not be apprehended, transported or admitted to a designated facility under a certificate made before the date of the order;
- (c) that the patient be discharged from the designated facility;
- (d) that within 10 days the director named in the order must obtain a report from a psychiatrist, stating
  - (i) that the psychiatrist has examined the patient at the director's request on the dates stated in the report,
  - (ii) whatever further information the psychiatrist considers relevant, and
  - (iii) whether or not, in the opinion of the psychiatrist for the reasons stated in the report, the patient
    - (A) is a person with a mental disorder,

(B) requires treatment in or through a designated facility,

(C) requires care, supervision and control in or through a designated facility to prevent the patient's substantial mental or physical deterioration or for the protection of the patient or the protection of others, and

(D) cannot suitably be admitted as a voluntary patient;

(e) that the patient, if not detained in a designated facility at the time an order under paragraph (d) is made, attend before the psychiatrist for examination at a time and place appointed by the director.

(9) On receiving a report made under an order under subsection (8) (d), the court must

(a) reject the application made under subsection (2) if the court is satisfied that there is sufficient reason and legal authority for the certificate, and

(b) make an order under subsection (8) (a), (b) or (c) if the court is satisfied that there is not sufficient reason or legal authority for the certificate.

(10) If an order is made under subsection (8) (c), the director must immediately discharge the patient.

Notice to involuntary patient

34 (1) The director must give a notice to a patient on

(a) the patient's detention in or through a designated facility under section 22 (1), 28 (5), 29 or 42 (1);

(b) the patient's transfer to a designated facility under section 35;

(c) a renewal of the patient's detention under section 24.

(2) A notice under this section must be given in writing in the prescribed form and orally and must inform the patient of the following:

(a) the name and location of the designated facility in or through which the patient is detained;

(b) the right set out in section 10 of the *Canadian Charter of Rights and Freedoms*;

(c) the provisions of sections 23 to 25, 31 and 33;

(d) any other prescribed information.

(3) If the director is satisfied that a patient was unable to understand the information in the notice at the time the notice was given to the patient, the director must give the notice again to the patient as soon as the director considers that the patient is capable of understanding the information in the notice.

Notice to patient under 16 years of age

34.1 (1) The director must give a notice to a patient on

(a) the patient's admission to a designated facility under section 20 (1) (a) (ii), or

(b) the making of a report under section 20 (4) in respect of the patient's admission under section 20 (1) (a) (ii).

(2) A notice under this section must be given in writing in the prescribed form and orally and must inform the patient of the following:

(a) the name and location of the designated facility to which the patient is admitted;

(b) the right set out in section 10 of the *Canadian Charter of Rights and Freedoms*;

(c) the provisions of sections 21, 25, 31 and 33;

(d) any other prescribed information.

(3) If the director is satisfied that a patient was unable to understand the information in the notice at the time the notice was given to the patient, the director must give the notice again to the patient as soon as the director considers that the patient is capable of understanding the information in the notice.

Advice to near relative

34.2 (1) The director must send to a near relative of the patient a written notice setting out the patient's rights under sections 21, 23, 24, 25 and 33 immediately after

(a) the admission of the patient to the designated facility under section 20 (1) (a) (ii), or

(b) the admission and detention of the patient in the designated facility under section 22 (1) or 28 (5).

(2) The director must give notice in the prescribed manner to a near relative of a patient immediately after

(a) discharging the patient from the designated facility, or

(b) receipt of a request under section 25 (1) from someone who is not a near relative of the patient.

(3) On making an order under section 25 (1.1), the chair must give a notice of the order in the prescribed manner to a near relative of the patient.

(4) If the director or chair has no information about the identity of the patient's near relatives, this section is sufficiently complied with if the notice is sent to the Public Guardian and Trustee.

Transfers

35 (1) If a transfer to another designated facility is considered beneficial to the welfare of a patient, the director may, by agreement with the director of the other designated facility, authorize the transfer and transfer the patient.

(2) Despite subsection (1), if a person detained under section 29 is transferred, the transfer must be to a Provincial mental health facility and the transfer may only be made

(a) with the approval of the Lieutenant Governor in Council, or

(b) if the person is detained under section 29 (4) and (5), with the authorization of the person in charge of the correctional centre, youth custody centre, prison or lockup from which the person was transferred.

(3) A director to whose designated facility a patient is transferred under this section has authority to detain the patient and the time limited by this Act for the doing of any thing runs as if the patient's detention were continuous in or through one designated facility.

Discharge

36 (1) The director may discharge a patient from the designated facility.

(2) An application, request, medical certificate or warrant made or issued under this Act before the discharge of the patient with respect to whom it is made or issued is not effective after the discharge for the purposes of this Act.

(3) If a person is discharged from a designated facility other than by the operation of section 41 (3), the director must, on receiving an application by or on behalf of the person, provide the person with a certificate of discharge, signed by the director, in the prescribed form.

Leave

37 Subject to section 40 and the regulations, if the director considers that leave would benefit a patient detained in the designated facility, the director may release the patient on leave from the designated facility providing appropriate support exists in the community to meet the conditions of the leave.

Approved homes

38 Subject to section 40 and the regulations, if the director considers that the transfer would benefit a patient detained in the designated facility, the director may transfer the patient to an approved home.

Authority to detain continues despite leave or transfer

39 (1) The release of a patient on leave or the patient's transfer to an approved home under section 37 or 38 does not, of itself, impair the authority for the patient's detention under this Act and that authority may be continued, according to the same procedures and to the same extent, as if the patient were detained in a designated facility.

(2) Subject to the regulations, a patient who is on leave or has been transferred to an approved home under section 37 or 38 may, if the conditions of the patient's leave or transfer are not being met, be recalled

(a) to the designated facility from which the patient was released or transferred, or

(b) to another designated facility, if the transfer to that facility is authorized and agreed to under section 35.

(3) Subject to the regulations, the director of a designated facility who recalls a patient under subsection (2), or to which a patient is recalled under subsection (2) as a result of a transfer under section 35, may issue a warrant in the prescribed form for the patient's apprehension and transportation to the designated facility to which the patient is recalled.

(4) A patient who is recalled under subsection (2) while on leave that has lasted 6 or more consecutive months is deemed, for the purposes of sections 23 to 25, to have been admitted under section 22 (1) on the date of return to a designated facility as a result of the recall.

Exception to rules about leave and approved homes

40 Except as provided by order of the Lieutenant Governor in Council, sections 37 and 38 do not apply to a patient

(a) who was admitted to a Provincial mental health facility under section 29 or under the *Criminal Code* and remains liable to imprisonment or detention in a jail, prison or training school, or

(b) who is detained in a Provincial mental health facility under the *Criminal Code*.

Unauthorized absences

41 (1) If a patient detained in a designated facility leaves the designated facility without having been released on leave or transferred to an approved home under section 37 or 38 or discharged under this Act, the director may, within 60 days after the date on which the patient leaves the facility, issue a warrant in prescribed form for the apprehension of the patient and the patient's transportation to the designated facility and the warrant is authority for the apprehension of the patient and the patient's transportation to the designated facility.

(2) If a warrant is issued under subsection (1), all peace officers and other persons designated by the director must give any assistance required in the apprehension of the patient or the transportation of the patient to the designated facility.

(3) Except as provided in subsection (4), after the end of 60 days from the date the patient leaves the designated facility under the circumstances set out in subsection (1), the patient is deemed to have been discharged from the designated facility.

(4) If a patient detained in a designated facility leaves the designated facility under the circumstances set out in subsection (1) while charged with an offence or liable to imprisonment or considered by the director to be likely to endanger the patient's safety or the safety of others, even though the period of 60 days has

elapsed since the date the patient left the designated facility, the director may issue a warrant in the prescribed form for the patient's apprehension and transportation to a designated facility and the warrant is authority for the patient's apprehension and transportation to the designated facility.

(5) If a patient escapes during the course of transfer to a designated facility, both the director of the designated facility to which the patient was being transferred and the director of the designated facility from which the patient was being transferred may issue a warrant under this section.

(6) A patient detained in a designated facility who leaves the designated facility under the circumstances set out in subsection (1) may be apprehended for the purpose of returning the patient to the facility, within 48 hours from the time the patient leaves, even though no warrant has been issued under this section.

Transfer from another province

42 (1) If a director receives a written request from an appropriate mental health authority of another province with respect to a person who, because of being a person with a mental disorder, is detained in a hospital or mental health facility in that other province, the director may authorize the taking into custody and transportation of the person to the designated facility and may admit that person.

(2) On being admitted under subsection (1), the patient must be discharged at the end of 48 hours detention unless the director receives 2 medical certificates as described in section 22 (3).

(3) On the director receiving 2 medical certificates as described in subsection (2), section 22 (6) and (7) applies to the patient.

PART 4 – REGULATIONS

Power to make regulations

43 (1) The Lieutenant Governor in Council may make regulations referred to in section 41 of the *Interpretation Act*.

(2) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations as follows:

(a) prescribing forms, including the form of the warrant under section 28, 39 or 41;

(b) governing the selection, approval and operation of approved homes and the payment of the cost of the maintenance of the patients in them;

(c) governing the establishment, development, maintenance and management of services and designated facilities for the examination, diagnosis and treatment of persons with a mental disorder and the rehabilitation of patients;

(d) governing the protection and custody of patients detained in designated facilities;

(d.1) governing the reports to be made concerning patients detained in designated facilities;

(e) governing the transfer of patients between designated facilities or to and from reciprocating jurisdictions;

(f) concerning the acquisition and management of property under this Act;

(g) prescribing standards for buildings or premises that are designated facilities and for the furnishings and equipment of these buildings or premises;

(h) concerning the establishment and operation of a mental health clinic or service by a society, the standards of care to be observed in the clinic or in the provision of the service, their inspection and the rates or fees charged by the society;

(i) concerning the licensing of premises as private mental hospitals, the conditions of the licence and the designation of the provisions of this Act that are applicable to private mental hospitals;

(j) concerning follow up and after care services and rehabilitation programs for patients;

(k) governing boarding home care services;

(l) concerning the admission of patients to designated facilities or a particular designated facility, the care, treatment and maintenance of patients and the discharge of patients;

(m) prescribing rules respecting the conduct of hearings, including the practice and procedure, under sections 23 to 25;

(n) prescribing the period referred to in section 22 (7);

(o) governing the release and recall of patients on leave or the transfer and recall of patients to or from approved homes, including the care, supervision, treatment, maintenance or rehabilitation of patients on leave or transferred to approved homes;

(p) governing the appointment of directors;

(q) governing the preparation of second medical opinions under section 31.

SCHEDULE

[Schedule repealed 1998-35-20.]

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Victoria, 2005

APPENDIX 15

MENTAL HEALTH REGULATION

BRITISH
COLUMBIA

Mental Health Regulation

B.C. REGULATION 233/99

[Current to April 4, 2005]

Produced by the Queen's Printer
for convenience purposes only.

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Victoria, 2005

B.C. Reg. 233/99
O.C. 869/99

Deposited July 19, 1999
effective November 15, 1999

Mental Health Act

MENTAL HEALTH REGULATION

[includes amendments up to B.C. Reg. 132/2005]

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FORMS

Definitions

1 In this regulation:

"Act" means the *Mental Health Act;*

"chair" means a chair of a review panel appointed under section 24.1 (2) (c) of the Act;

"health authority" means

(a) a board designated under the *Health Authorities Act,*

(b) a board of a hospital as defined by section 1 of the *Hospital Act*, or

(c) any other governing body of a designated facility;

"review panel" means a review panel appointed under section 24.1 (2) of the Act;

"review panel office" means the office having the following address:

Dogwood Building, Holly Drive
2601 Lougheed Highway
Coquitlam, BC V3C 4J2
Phone: (604) 524-7219 or 524-7220
Fax: (604) 524-7216.

[am. B.C. Reg. 132/2005.]

Prescribed periods

2 (1) The prescribed period for the purposes of the definition of "resident of British Columbia" in section 1 of the Act is 3 months.

(2) The prescribed period for the purposes of section 22 (7) of the Act is 5 days.

Director of facility to be appointed

3 The health authority responsible for the operation of a designated facility must appoint a person as director of the facility.

Charges

4 (1) The daily charge for long term care, treatment and maintenance of a person who is admitted under section 20 of the Act to a Provincial mental health facility, in respect of persons who have attained the age of 19 years, must be calculated as follows and rounded down to the nearest dime:

$$(OAS + GISs) \times \frac{12}{365} \times 0.85$$

where

OAS=the monthly dollar amount of the federal Old Age Security pension;

GISs=the maximum monthly dollar amount of the federal Guaranteed Income Supplement for a single person.

(2) For the purposes of calculating a daily fee under this section

(a) the year is divided into 4 quarters beginning on February 1, May 1, August 1 and November 1 respectively, and

(b) the fee for a day is calculated on the basis of the OAS and GISs as they stand on the first day in the quarter in which the day falls.

Notice to patients

5 The director must ensure that a copy of the Act, sections 1 to 10 of this regulation and Forms 13 and 14 is posted in a conspicuous place that is accessible to patients in the designated facility.

Conduct of review panel hearings

6 (1) In this section:

"hearing" means a hearing by a review panel under section 25 of the Act;

"facility" means the designated facility in or through which the patient is receiving treatment;

"patient" means a person entitled to a hearing.

(2) A hearing may be requested only after a second medical certificate respecting the patient is received by the director under section 22 (2) of the Act.

(3) A request for a hearing must be delivered to the director.

(4) On receiving a request for a hearing, the director must deliver it to the review panel office, and if delivered by facsimile or other electronic means, a paper copy must also be delivered.

(5) The prescribed time for the purposes of section 25 (1) (a) of the Act is 14 days after the request for a hearing is delivered to the review panel office.

(6) The prescribed time for the purposes of section 25 (1) (b) and (c) of the Act is 28 days after the request for a hearing is delivered to the review panel office.

(7) A patient who requests a hearing, or a person who requests a hearing on behalf of a patient, must be given at least 2 clear days' notice of the hearing.

(8) to (21) [Repealed BC Reg. 132/2005.]

[am. B.C. Reg. 79/2001; 132/2005.]

Review of leave after 12 months

7 (1) The director must give written notice to the review panel office of any patient to whom section 25 (1.1) of the Act applies.

(2) At the request of a chair, the director must deliver to the chair a copy of the treatment record of a patient referred to in subsection (1).

(3) For the purposes of a review under section 25 (1.1) of the Act, a chair may discuss the patient's treatment and care needs with

(a) the patient's treating physician, or

(b) any other health professional who is providing, or has provided, treatment or care to the patient.

(4) If a hearing is ordered under section 25 (1.1) of the Act respecting a patient, the patient may cancel the hearing at any time before the hearing begins.

Second medical opinion

8 (1) An examination for the purposes of a second medical opinion requested under section 31 (2) of the Act must be completed as soon as reasonably practicable after the director receives the request.

(2) A physician who provides a second opinion under section 31 (2) of the Act

(a) is not required to have a permit to practice in the designated facility in or through which the patient is detained,

(b) must be given reasonable access to the patient and the patient's treatment record kept by the designated facility, and

(c) must be given a reasonable opportunity to discuss the patient's treatment and care needs with the patient's treating physician.

(3) A second medical opinion must be delivered to the director no later than 2 clear days after the examination referred to in subsection (1) is completed.

(4) A designated facility is not required to reimburse a patient, or a person acting on behalf of a patient, for expenses incurred by the patient or person in connection with obtaining a second medical opinion under section 31 (2) of the Act.

Release on leave and recall

9 (1) Subject to subsection (2), a patient may not be released under section 37 of the Act unless the leave is first authorized by the director, or a physician authorized by the director, in the form specified under section 11 (20) of this regulation.

(2) Authorization in the form referred to in subsection (1) is not required if a patient is released on leave on conditions that include a requirement that the patient return to the designated facility in a period of 14 days or less after the date of release.

(3) The director may, in writing, authorize a physician to exercise any of the following powers or carry out any of the following duties in relation to a patient released on leave:

(a) care, supervision, treatment, maintenance or rehabilitation of the patient;

(b) completion of a medical report to authorize renewal of the patient's detention;

(c) amending the patient's conditions of leave;

(d) recalling the patient;

(e) discharging the patient.

(4) A physician authorized under subsection (3) need not have a permit to practice in the designated facility.

(5) A patient may not be recalled unless a director referred to in section 39 of the Act, or a physician authorized by the director, is satisfied from an examination of the patient, personal observations or information received that the patient

(a) requires treatment in a designated facility,

(b) requires care, supervision and control in a designated facility to prevent the patient's substantial mental or physical deterioration or for the protection of the patient or the protection of others, and

(c) will not voluntarily return to a designated facility.

Application to court for examination

10 (1) A judge or justice of the peace referred to in section 28 (3) of the Act may order that an application under that section may be made without using the form specified under section 11 (9) of this regulation for that application.

(2) If a judge or justice of the peace referred to in section 28 (3) of the Act is satisfied that public knowledge of an application under that section could reasonably be expected to result in a significant risk of harm to any person's safety or mental or physical health, the judge or justice may order that the application must not be disclosed to any person other than a person authorized by a designated facility to which the person who is the subject of the application is or may be admitted.

Forms

11 (1) An application for admission to a designated facility under section 20 of the Act must be in Form 1.

(2) A consent for treatment for a patient admitted to a designated facility under section 20 of the Act must be in Form 2.

(3) A medical report on the review of continued hospitalization of a person under 16 years of age under section 20 of the Act must be in Form 3.

(4) A medical certificate under section 22 (3) of the Act must be in Form 4.

(5) A consent for treatment for a patient admitted under section 22, 28, 29 or 42 of the Act must be in Form 5.

(6) A medical report to authorize renewal of detention under section 24 (2) of the Act must be in Form 6.

(7) An application for a hearing under section 25 of the Act must be in Form 7.

(8) A review panel determination under section 25 of the Act must be in Form 8.

(9) Subject to section 10 (1) of this regulation, an application under section 28 (3) of the Act must be in Form 9.

(10) A warrant under section 28 (4) of the Act must be in Form 10.

(11) A request under section 31 (2) of the Act must be in Form 11.

(12) A second medical opinion under section 31 (2) of the Act must be in Form 12.

(13) A notice under section 34 of the Act must be in Form 13.

(14) A notice under section 34.1 of the Act must be in Form 14.

(15) A nomination of a near relative for the purposes of section 34.2 of the Act must be in Form 15.

(16) A notice under section 34.2 (1) of the Act must be in Form 16.

(17) A notice under section 34.2 (2) (a) of the Act must be in Form 17.

(18) A notice under section 34.2 (2) (b) of the Act must be in Form 18.

(19) A certificate of discharge under section 36 of the Act must be in Form 19.

(20) Subject to section 9 (2) of this regulation, an authorization for release on leave under section 37 of the Act must be in Form 20.

(21) A warrant under section 39 or 41 of the Act must be in Form 21.

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FORM 1
MENTAL HEALTH ACT
[Section 20, R.S.B.C. 1996, c. 288]

REQUEST FOR ADMISSION
(VOLUNTARY PATIENT)

The information on this form is collected pursuant to section 20 of the *Mental Health Act*. It will be used to document your voluntary admission to this facility designated under the *Mental Health Act*. Any questions you have about this form may be addressed to the director or staff of this facility.

I, ____,
patient's first and last name (please print)

of ____
street address *city* *province* *postal code*

request admission to ____
name of designated facility

for treatment, and agree to abide by the rules and regulations of the designated facility and to inform the staff if I wish to be discharged from the designated facility.

______________________________	__ __ / __ __ / __ __ __ __
signature (patient, if 16 years of age or older)	*date of signature (dd / mm / yyyy)*

OR

______________________________	__ __ / __ __ / __ __ __ __
signature (parent or guardian, if patient is under the age of 16 years)	*date of signature (dd / mm / yyyy)*

____
name of parent or guardian, if applicable (please print)

______________________________	__ __ / __ __ / __ __ __ __
signature (witness)	*date of signature (dd / mm / yyyy)*

____
first and last name of witness (please print)

HLTH 3501 Rev. 2005/06/01

FORM 2
MENTAL HEALTH ACT
[Section 20, R.S.B.C. 1996, c. 288]

CONSENT FOR TREATMENT
(VOLUNTARY PATIENT)

I, ____,
patient's first and last name (please print)

in ____
name of designated facility

authorize the following treatment(s) ____

Note: if above space is insufficient, continue on back of form

The nature of my condition, options for my treatment, the reasons for and the likely benefits and risks of the treatment(s) described above have been explained to me by

____.
name and position/title

____
signature (patient, if 16 years of age or older)

____
date of signature (dd / mm / yyyy)

or

____
signature (parent or guardian, if patient is under 16 years of age)

____
date of signature (dd / mm / yyyy)

____
name of parent or guardian, if applicable (please print)

____
signature (witness)

____
date of signature (dd / mm / yyyy)

____
first and last name of witness (please print)

HLTH 3502 Rev. 2005/06/01

FORM 3
MENTAL HEALTH ACT

[Section 20, R.S.B.C. 1996, c. 288]

MEDICAL REPORT
(EXAMINATION OF A PERSON UNDER 16 YEARS OF AGE, ADMITTED AT REQUEST OF PARENT OR GUARDIAN)
(RENEWAL CERTIFICATE)

I, ______________________________, M.D.,
name of physician (please print)

being a physician and the director of, ***or*** a physician authorized by the director of,

______________________________, certify that on ____________
name of designated facility *dd / mm / yyyy*

I personally examined ______________________________,
patient's first and last name (please print)

who is currently under the age of 16 years and was admitted at the request of a parent or guardian

in ______________________________.
name of designated facility

On the basis of my examination, I have formed the opinion that this patient continues to be a person with a mental

disorder and should remain as a patient for a period of ____________,
no. of days, weeks or months

commencing on ____________.
dd / mm / yyyy

The patient must be examined again before ____________.
dd / mm / yyyy

The reasons that lead me to conclude that this patient is a person with a mental disorder and should not be discharged are:

____

____

____

____

____

____

____

____

____

____

____

____

Note: if above space is insufficient, continue on back of form

______________________________ ____________
signature of physician *date of signature (dd / mm / yyyy)*

HLTH 3503 Rev. 2005/06/01

FORM 4
MENTAL HEALTH ACT

[Sections 22, 28, 29 and 42,
R.S.B.C. 1996, c. 288]

MEDICAL CERTIFICATE
(INVOLUNTARY ADMISSION)

I, ______________________________ , M.D., certify that I examined
physician's name (please print)

______________________________ on __ __ / __ __ / __ __ __ __ .
first and last name of person examined (please print) *dd / mm / yyyy*

1. In my opinion, this person:

   has a disorder of the mind that requires treatment and which seriously impairs the person's ability to react appropriately to his/her environment or to associate with others (section 1 of the *Mental Health Act*);

2. In my opinion, this person:

   (a) requires treatment in or through a designated facility; and

   (b) requires care, supervision and control in or through a designated facility to prevent his/her substantial mental or physical deterioration or for the protection of the person or for the protection of others; and

   (c) cannot suitably be admitted as a voluntary patient.

This person ☐ was ☐ was not brought to me by a police officer or constable under section 28 of the Act.

In summary form, the reasons for my opinion are: (information may be obtained through interviews, observations and collateral sources)

Note: if above space is insufficient, continue on back of form

Signed ______________________________ __ __ / __ __ / __ __ __ __
physician's signature *date of signature (dd / mm / yyyy)*

______________________________ ______________
physician's address (please print) *telephone*

Note: This medical certificate, when duly signed, is authority for anyone to apprehend the person who is the subject of this certificate and to transport the person to a designated facility for admission and detention for a 48 hour period. If a second medical certificate is completed within that period, it provides authority to detain the person for one month from the date of admission under the first certificate.

If this is a first medical certificate, it becomes invalid on the 15th day after the date upon which the physician examined the person who is the subject of the certificate unless the person has been admitted on the basis of it.

HLTH 3504 Rev. 2005/06/01 (PINK)

FORM 5
MENTAL HEALTH ACT

[Sections 8 and 31, R.S.B.C. 1996, c. 288]

CONSENT FOR TREATMENT
(INVOLUNTARY PATIENT)

Note: Complete either **A** or **B**

A. I, ______________________________, authorize the treatment described below.
first and last name of patient (please print)

B. I, ______________________________, authorize the treatment described below
name of director or person authorized by the director (please print)

with respect to ______________________ at ______________________.
first and last name of patient *name of designated facility (please print)*

Description of treatment/course of treatment:

____

____

____

____

____

____

____

____

The nature of the condition, options for treatment, the reasons for and the likely benefits and risks of the treatment described above have been explained to me by ______________________________.
name and position/title

Complete either **A** or **B**

A. If signed by patient

____
patient's signature

_____ / _____ / _________ ______________
date (dd / mm / yyyy) *time*

____
witness' signature

____
witness' first and last name (please print)

To the best of my judgment, the above-named patient was capable of understanding the nature of the above authorization at the time it was signed.

______________________________, M.D.
signature of physician

B. If not signed by patient

____
signature

____
name of director or person authorized by the director (please print)

____
position/title

_____ / _____ / _________ ______________
date (dd / mm / yyyy) *time*

The above-named patient is an involuntary patient under section 22, 28, 29, 30, or 42 of the *Mental Health Act* and to the best of my judgment is incapable of appreciating the nature of treatment and/or his or her need for it, and is therefore incapable of giving consent.

______________________________, M.D.
signature of physician

HLTH 3505 Rev. 2005/06/01

FORM 6
MENTAL HEALTH ACT
[Section 24, R.S.B.C. 1996, c. 288]

MEDICAL REPORT ON EXAMINATION OF INVOLUNTARY PATIENT
(RENEWAL CERTIFICATE)

I, ______________________________ , M.D., being a physician and the
name of physician (please print)

director of, ***or*** a physician authorized by the director of, ______________________________
name of designated facility

certify that on ______________ I examined ______________________________
dd / mm / yyyy *first and last name of patient (please print)*

who on ______________ was admitted as an involuntary patient to ______________________ .
dd / mm / yyyy *name of designated facility*

On the basis of my examination, and having taken into consideration the requirements of section 24 (2.1)* of the *Mental Health Act*, I have formed the opinion that: (1) sections 22 (3) (a) (ii) and (c)** of the Act continue to describe the condition of the patient; and (2) that this patient's status as an involuntary patient should be renewed.

The patient's status as an involuntary patient is renewed for a period of up to ______________________ .
number of month(s)

The patient must be examined again on or before ______________ , the date on which this renewal
dd / mm / yyyy

expires. The reasons that lead me to form the above opinion are:

Note: if above space is insufficient, continue on back of form

______________________________ ______________
signature of physician *dd / mm / yyyy*

Notes:

* Section 24 (2.1) requires that the physician's examination must include:
  (a) *consideration of all reasonably available evidence concerning the patient's history of mental disorder including (i) hospitalization for treatment, and (ii) compliance with treatment plans following hospitalization, and*
  (b) *an assessment of whether there is significant risk that the patient, if discharged, will as a result of mental disorder fail to follow the treatment plan the director or physician considers necessary to minimize the possibility that the patient will again be detained under section 22.*

** *Section 22 (3) of the Act states the following involuntary admission criteria:*
The patient is a person with a mental disorder who (i) requires treatment in or through a designated facility, (ii) requires care, supervision and control in or through a designated facility to prevent the patient's substantial mental or physical deterioration or for the protection of the patient or the protection of others, and (iii) cannot suitably be admitted as a voluntary patient.

HLTH 3506 Rev. 2005/06/01

FORM 7
MENTAL HEALTH ACT
[Section 25, R.S.B.C. 1996, c. 288]

APPLICATION FOR REVIEW PANEL HEARING

The information on this form is collected pursuant to section 25 of the *Mental Health Act*. It will be used to document and initiate your application for a review panel hearing. Any questions you have about this form may be addressed to the director or staff of this facility.

To the director of ______________________________
name of designated facility

I, ______________________________ , request a hearing by a review panel, in the case of:
first and last name of applicant (please print)

______________________________ , ____________ .
first and last name of patient (please print) *ward / unit*

____
signature of applicant

____
date of signature (dd / mm / yyyy)

____
organization (if representing an organization when making the application)

____
relationship to patient

____
address of organization

HLTH 3507 Rev. 2005/06/01

FORM 8
MENTAL HEALTH ACT

[Section 25, R.S.B.C. 1996, c. 288]

REVIEW PANEL DETERMINATION

I, ______________________________ , chair of the review panel, certify that the
chair's name (please print)

review panel has reviewed the case of ______________________________
first and last name of patient (please print)

☐ who was admitted to ______________________________ on ____________
name of designated facility *date (dd / mm / yyyy)*

☐ *and whose status as an involuntary patient was last renewed effective ____________ .
**Complete only if applicable* *date (dd / mm / yyyy)*

______________________________ ____________
signature of chair *date (dd / mm / yyyy)*

We, the members, or a majority of the members, of the review panel, have determined that the patient named above

☐ should continue to be detained in or through a designated facility because section 22 (3) (a) (ii) and (c) of the Act continues to describe the condition of the patient.

OR

☐ should be discharged.

Our reasons are:

____

____

____

____

____

____

____

____

Note: If above space is insufficient, continue on back of form

Dated ____________
dd / mm / yyyy

The panel, or a majority of the panel:

______________________________ ______________________________
signature of panel member *name of panel member (please print)*

______________________________ ______________________________
signature of panel member *name of panel member (please print)*

______________________________ ______________________________
signature of panel member *name of panel member (please print)*

HLTH 3508 Rev. 2005/06/01

FORM 9
MENTAL HEALTH ACT
[Section 28, R.S.B.C. 1996, c. 288]

APPLICATION FOR WARRANT
(APPREHENSION OF PERSON WITH APPARENT MENTAL DISORDER FOR PURPOSE OF EXAMINATION)

I, ______________________________, make application under section 28 (3) of
first and last name of applicant (please print)

the *Mental Health Act* with respect to ______________________________,
first and last name of person about whom application is made

of ______________________________.
last known address of person about whom application is made

I have reasonable grounds to believe that:

(a) section 28 (3) of the Act applies to the above-named person; and

(b) section 22 of the Act* cannot be used without unreasonable delay.

** Section 22 requires that a physician examine the person to determine whether the person meets the criteria for involuntary admission to a designated facility.*

THE GROUNDS FOR MY BELIEF ARE:

____

____

____

____

____

If additional space is required, use an additional page and date and initial that page

The applicant requests that a warrant be granted to apprehend the person.

Dated ____________ at ______________________________, British Columbia
date (dd / mm / yyyy)

____
signature of applicant

Applicant's relationship to the person who is the subject of this application, and how long the applicant has known this person:

______________________________ ______________________________
relationship *length of time (months/years)*

AFFIDAVIT OF APPLICANT

I, ______________________________, ☐ swear ☐ affirm that:
name of applicant (please print)

1. I am the applicant for the warrant for apprehension of a person with a mental disorder.
2. The grounds for my belief are true to the best of my knowledge.

____
signature of applicant

☐ Sworn ☐ Affirmed before me on ____________
date (dd / mm / yyyy)

at ______________________________, *British Columbia*

____
Commissioner for Taking Affidavits in British Columbia

HLTH 3509 Rev. 2005/06/01

PAGE 1 OF 2

Instructions for Completing this Application

You are encouraged, but not required, to use the headings provided below to describe why you believe that a warrant under section 28 (3) of the Mental Health Act is needed. Further, if you believe that public knowledge of this written application could reasonably be expected to result in harm to your safety or mental or physical health, you may ask the judge or justice for permission to present your information verbally instead of completing this form, or for restrictions on the release of the information that forms the basis of this application.

1. **Indications of mental disorder** (e.g., hallucinations, delusions, depression, extreme excitement, specific difficulties in relating to others)
2. **Need for psychiatric treatment** (The above indications of mental disorder may also indicate a need for a psychiatric treatment. List any other indications of need for treatment, such as previous psychiatric treatment, use of medication for mental disorder and/or recent changes in behaviour.)
3. **Need to prevent the person's substantial mental or physical deterioration** (e.g., failure to eat, uncharacteristic verbal abusiveness, sleep problems, extreme withdrawal. Were the early signs of any previous episodes the same or similar?)
4. **Need for protection of self or others resulting from the mental disorder** (Are there examples of clearly or potentially harmful behaviour or symptoms? (e.g., suicidal ideation, potential loss of job, aggressive behaviour, uncharacteristic harmful financial actions.) Has this person had similar previous episodes?)
5. **Refusal to attend voluntarily for examination by physician**

The information on this form is collected pursuant to section 28 of the *Mental Health Act*. It will be used by a judge to determine if a warrant should be issued for the apprehension and examination of the person. Any questions you have about this form may be addressed to the Clerk of the Court.

FORM 10
MENTAL HEALTH ACT

[Section 28, R.S.B.C. 1996, c. 288]

WARRANT
(APPREHENSION OF PERSON WITH APPARENT MENTAL DISORDER)

Province of British Columbia:

To all Peace Officers:

An application under section 28 (3) of the *Mental Health Act* has been made to me today regarding

____.
first and last name of person (please print)

born ____________ , of ________________________________.
date of birth (dd / mm / yyyy) *address*

I am satisfied that:

(a) the applicant has reasonable grounds to believe that section 28 (3) applies to the above-named person, and

(b) section 22 cannot be used without unreasonable delay.

You are therefore commanded, in Her Majesty's name, to immediately apprehend the above-named person and to transport this person to a designated facility for admission for the purpose of examination in accordance with section 28 (5) of the *Mental Health Act*.

☐ It is ordered that access to the information in support of this warrant is restricted and must not be distributed to any person other than a person authorized by a designated facility to which the person is or may be admitted.

Signed ________________________________ ____________
signature of judge or justice of the peace *date (dd / mm / yyyy)*

Name ________________________________
name of judge or justice of the peace (please print)

at ________________________________, British Columbia
municipality

HLTH 3510 Rev. 2005/06/01

FORM 11
MENTAL HEALTH ACT

[Section 31, R.S.B.C. 1996, c. 288]

REQUEST FOR SECOND MEDICAL OPINION

I, ______________________________, request a second medical opinion
first and last name (please print)

Note: check one box only

☐ on the appropriateness of my treatment.

OR

☐ on the appropriateness of the treatment of ______________________________
first and last name of patient

who is an involuntary patient at ______________________________.
name of designated facility

Note: Complete either 1 or 2

1. Request for a specific physician

I request the examination be carried out by Dr. ______________________________

of ______________________________
address of physician (if known)

If my first choice is not available, I request Dr. ______________________________

of ______________________________
address of physician (if known)

I confirm that I have been advised that there may be a cost to me depending upon the distance the physician has to travel.

OR

2. Request to director to appoint a physician

I request that the director appoint a physician to conduct the examination.

____
signature

____
date (dd / mm / yyyy)

____
signature of witness

____
name of witness (please print)

____
address and phone number (if applying on behalf of the patient)

HLTH 3511 Rev. 2005/06/01

FORM 12
MENTAL HEALTH ACT

[Section 31, R.S.B.C. 1996, c. 288]

MEDICAL REPORT
(SECOND MEDICAL OPINION)

To the director of ______________________________ ;
name of designated facility

On ____ *date (dd / mm / yyyy)* I examined ______________________________ *first and last name of patient (please print)*

who is a patient at ______________________________ .
name of designated facility

Based on my examination, my opinion on the appropriateness of the treatment is *(include recommendations if any)*:

Note: If above space is insufficient, continue on back of form

physician's signature *date (dd / mm / yyyy)*

physician's name (please print)

physician's address and phone number

For Office Use Only

☐ I acknowledge receipt of this medical report.

signature of director *date (dd / mm / yyyy)*

HLTH 3512 Rev 2006/06/01

FORM 13
MENTAL HEALTH ACT
[Section 34, R.S.B.C. 1996, c. 288]

NOTIFICATION TO INVOLUNTARY PATIENT OF RIGHTS UNDER THE *MENTAL HEALTH ACT*

The information in **bold** type must be read to the patient.

I am here to tell you about your legal rights under the *Mental Health Act* as an involuntary patient. I will read you a summary of these rights. You may ask me questions at any time. I will give you a copy of this form, which contains information for you to read.

You have the right:

1. **to know the name and location of this facility. It is** ______________________
   name of facility

   at ______________________
   location

2. **to know the reason why you are here. You have been admitted under the *Mental Health Act*, against your wishes, because a medical doctor is of the opinion that you meet the conditions required by the *Mental Health Act* for involuntary admission. (see *Reasons for Involuntary Admission*)**
3. **to contact a lawyer. (see *Contacting a Lawyer*)**
4. **to be examined regularly by a medical doctor to see if you still need to be an involuntary patient. (see *Renewal Certificates*)**
5. **to apply to the Review Panel for a hearing to decide if you should be discharged. (see *Review Panel*)**
6. **to apply to the court to ask a judge if your medical certificates are in order. A lawyer is normally required. (see *Judicial Review (Habeas Corpus)*)**
7. **to appeal to the court your medical doctor's decision to keep you in the facility. A lawyer is normally required. (see *Appeal to the Court*)**
8. **to request a second medical opinion on the appropriateness of your medical treatment. (see *Second Medical Opinion*)**

____
name of patient (please print)

____
patient's signature

____
date signed (dd / mm / yyyy)

____
name of person who provided information

Give the patient a blank copy and file the named copy in the chart

HLTH 3513 Rev. 2005/06/01

PAGE 1 OF 2

MORE INFORMATION

REASONS FOR INVOLUNTARY ADMISSION

A medical doctor signed a medical certificate for your involuntary admission because the doctor is of the opinion that

(a) you are a person with a mental disorder that seriously impairs your ability to react appropriately to your environment or associate with other people,

(b) you require psychiatric treatment in or through a designated facility,

(c) you should be in a designated facility to prevent your substantial mental or physical deterioration or to protect yourself or other people, and

(d) you cannot be suitably admitted as a voluntary patient.

The reasons why the medical doctor thinks you should be here are written on the medical certificate. You may have a copy of the medical certificate unless the hospital believes that this information will cause serious harm to you or cause harm to others.

As an involuntary patient, you do not have a choice about staying here. The staff may give you medication or other treatment for your mental disorder even if you do not want to take it.

CONTACTING A LAWYER

You may contact any lawyer or advocate you choose at any time.

RENEWAL CERTIFICATES

If a second medical certificate is completed within 48 hours of your admission, you may be required to stay in hospital for up to one month depending on your response to treatment. Before the end of the month a medical doctor must examine you and your involuntary certificate may be renewed, if necessary, for up to another month. After this, the certificates must be renewed at the end of three months and then every six months. *Every time a new certificate is filled out, you have the right to ask for a hearing by a review panel.*

REVIEW PANEL

You or someone on your behalf may apply to the review panel by filling in a Form 7, Application for Review Panel Hearing. This form is available in the nursing unit. The review panel must decide within 14 days to continue your hospitalization or discharge you. There is no cost. Information about how a reveiw panel works can be provided by your nurse or you can contact the Mental Health Law Program directly at (604) 685-3425 or toll free at 1-888-685-6222.

JUDICIAL REVIEW (HABEAS CORPUS)

You may ask the court to look at the documents used in your involuntary admission to see whether you should be kept in this facility. You will need a lawyer to assist you and there may be a cost.

APPEAL TO THE COURT

Your may ask the Supreme Court of British Columbia to decide whether you must continue to be an involuntary patient. You will need a lawyer to assist you and there may be a cost.

SECOND MEDICAL OPINION

At any time after the second medical certificate is completed, you, or a person on your behalf, may request a second medical opinion about the appropriateness of your medical treatment. The second opinion is NOT about about whether you should continue to be an involuntary patient. You may ask to be seen by a medical doctor of your choice or ask the director to pick a medical doctor. There may be a cost to you depending on the distance the doctor has to travel. *When the director receives the second opinion, the director does not have to change the treatment; it is only an opinion.*

FORM 14
MENTAL HEALTH ACT
[Section 34.1, R.S.B.C. 1996, c. 288]

NOTIFICATION TO PATIENT UNDER AGE 16, ADMITTED BY PARENT OR GUARDIAN, OF RIGHTS UNDER THE *MENTAL HEALTH ACT*

The information in **bold** type must be read to the patient.

You have been admitted to this facility at the request of your parent or guardian and I am here to tell you about your legal rights under the *Mental Health Act*. I will read you a summary of these rights. You may ask me questions at any time. I will give you a copy of this form, which contains information for you to read.

You have the right:

1. **to know the name and location of this facility. It is** ____________________
   name of facility

   at ____________________
   location

2. **to know the reason why you are here. The facility has admitted you because your parent or guardian requested your admission, a medical doctor examined you and his/her opinion was that you have a mental disorder that requires treatment. (see *Reasons for Admission*)**
3. **to contact a lawyer. (see *Contacting a Lawyer*)**
4. **to be examined regularly by a medical doctor to see if you still need to be a patient in this facility. (see *Renewal Certificates*)**
5. **to apply to the Review Panel for a hearing to decide if you should be discharged. (see *Review Panel*)**
6. **to apply to the court to ask a judge if your medical certificates are in order. A lawyer is normally required. (see *Judicial Review (Habeas Corpus)*)**
7. **to appeal to the court your medical doctor's decision to keep you in the facility. A lawyer is normally required. (see *Appeal to the Court*)**

____
name of patient (please print)

____
patient's signature

____
date signed (dd / mm / yyyy)

____
name of person who provided information

Give the patient a blank copy and file the named copy in the chart

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MORE INFORMATION

REASONS FOR ADMISSION

You were admitted at the request of your parent or guardian and a medical doctor who examined you is of the opinion that

(a) you are a person with a mental disorder that seriously impairs your ability to react appropriately to your environment or associate with other people, and

(b) you require psychiatric treatment in a designated facility.

You do not have a choice about staying here. The staff may give you medication or other treatment, to which your parent or guardian has consented, for your mental disorder even if you do not want to take it.

You may talk to your medical doctor or a nurse about these things if you wish.

CONTACTING A LAWYER

You may contact any lawyer or advocate you choose at any time.

RENEWAL CERTIFICATES

Within one month of your admission, you must be examined by a medical doctor for the purpose of determining whether you should be discharged.

If the medical doctor is of the opinion that you should not be discharged, you have the right to

- a second examination within one month after the first month is ended,
- a third examination within three months of the second examination, and after that
- an examination within each six-month period after the third examination.

REVIEW PANEL

If you ask to be discharged, but the parent or guardian who requested your admission does not support your request, you have the right to request a hearing by a review panel to determine whether you should be discharged.

You or someone on your behalf may apply to the review panel by filling in a Form 7, Application for Review Panel Hearing. This form is available in the nursing unit. The review panel must decide within 14 days to continue your hospitalization or discharge you. There is no cost. Information about how a review panel works can be provided by your nurse or you can contact the Mental Health Law Program directly at (604) 685-3425 or toll free at 1-888-685-6222.

JUDICIAL REVIEW (HABEAS CORPUS)

You may ask the court to look at the documents used in your admission to see whether you should be kept in this facility. You will need a lawyer to assist you and there may be a cost.

APPEAL TO THE COURT

Your may ask the Supreme Court of British Columbia to decide whether you must continue to be a patient. You will need a lawyer to assist you and there may be a cost.

FORM 15
MENTAL HEALTH ACT

[Section 34.2, R.S.B.C. 1996, c. 288]

NOMINATION OF NEAR RELATIVE

The information on this form is collected pursuant to section 34.2 of the *Mental Health Act*. It will be used to document your nomination of a near relative. Any questions you have about this form may be addressed to the director or staff of this facility.

The *Mental Health Act* requires that the director must send a notice to a near relative immediately after a patient's admission, discharge or an application to the review panel (where applicable).

If you do not name a near relative, the director must choose a near relative to be notified. If the director has no information about your relatives, notification will be sent to the Public Guardian and Trustee.

I, ____________________________________, would like the near relative named below
first and last name of patient (please print)

to be notified of my admission or discharge or an application to the review panel (as applicable).

Person to be notified:

____________________________________ ____________________
first and last name *telephone number*

____________________________________ ____________________
address *postal code*

This person's relationship to me is: (please check one only):

☐ wife
☐ mother
☐ grandmother
☐ daughter
☐ sister
☐ half sister

☐ husband
☐ father
☐ grandfather
☐ son
☐ brother
☐ half brother

☐ common-law spouse
☐ same-sex partner
☐ friend
☐ companion
☐ legal guardian
☐ caregiver

☐ committee of person

____________________________________ ____________________
signature of patient *date (dd / mm / yyyy)*

____
name of designated facility

For office use only

☐ No known relative
☐ Patient declined to complete form

____
staff signature

HLTH 3515 Rev. 2005/06/01

FORM 16
MENTAL HEALTH ACT

[Section 34.2, R.S.B.C. 1996, c. 288]

NOTIFICATION TO NEAR RELATIVE
(ADMISSION OF INVOLUNTARY PATIENT OR PATIENT UNDER AGE 16)

This is to notify

____,
name of near relative (please print)

____,
address and phone number (please print)

being a near relative of ______________________ that on ___ / ___ / _____
name of patient (please print) *date (dd / mm / yyyy)*

the above patient was admitted and is being detained as ☐ an involuntary patient **or as** ☐ a patient under age 16 (tick off the statement which applies)

in ______________________, ______________________.
name of designated facility *address of designated facility*

RIGHTS INFORMATION

1. Duration of involuntary patient status

A patient who is an involuntary patient as a result of the completion of two medical certificates, under section 22 of the Act, may be detained for one month from the date of admission. If not already discharged, the patient must be discharged at the end of that month unless the authority for the patient's detention is renewed in accordance with section 24 of the Act.

2. Renewal certificate

An involuntary patient who has not been discharged has the right to be examined by a physician before the patient's medical certificate or renewal certificate expires, to determine whether the patient should be discharged. If the patient does not meet the criteria for continued treatment as an involuntary patient, the patient must be discharged or have his/her status changed to that of voluntary patient. If the physician determines that the patient continues to meet the criteria for involuntary admission, the physician must complete Form 6, Medical Report on Examination of Involuntary Patient (Renewal Certificate).

Section 24 of the Act provides that medical certificates may be renewed as follows:

- from the end of the first month, for one further month;
- for a further three-month period following the end of the second month;
- from the end of this three-month period, for a period of six months; or
- for further successive periods of six months.

The same requirement for a medical examination, completion of Form 3, Medical Report, and time periods apply to patients under age 16 admitted at the request of a parent or guardian under the Act.

3. Review panel application by or on behalf of an involuntary patient

An involuntary patient, or a person acting on the patient's behalf, has the right, under section 25 of the Act, to request a review of the patient's detention. This must be done on Form 7, Application for Review Panel Hearing. The review panel office's address is listed at the end of this form.

If an application has been made for a review panel hearing, the patient and a near relative will be informed of the time and date of the hearing. The patient may name which near relative is to be notified. The near relative has the right to participate in the review process.

4. Review panel application by or on behalf of a patient under age 16

A patient under sixteen years of age who was admitted to a designated facility by a parent or guardian, who asks to be discharged and whose request for discharge is not supported by the patient's parent or guardian, has the right under section 21 of the Act to request a review by a review panel. A person acting on the patient's behalf may also make the application.

If an application has been made for a review panel hearing, the patient and a near relative will be informed of the time and date of the hearing. The near relative has the right to participate in the review process.

5. Right to apply to the Supreme Court of British Columbia

The patient or someone acting on the patient's behalf may have the validity of the patient's admission and detention determined by way of an application (in the nature of *habeas corpus*) to the court under the *Judicial Review Procedure Act*. The patient or someone acting on the patient's behalf may also apply to the court under section 33 of the Act, to determine whether there is sufficient reason and authority for the medical certificate. Legal advice concerning these matters may be obtained from independent counsel or through the Legal Services Society or the Community Legal Services Society (CLAS).

The phone number of the local Legal Services Society office is ______________________________.

The phone number for CLAS is ______________________.

6. Second medical opinion

Under section 31 of the Act, the patient, or a person acting on the patient's behalf, has the right to request a second medical opinion on the appropriateness of the patient's treatment. This must be done using Form 11, Request for Second Medical Opinion.

The right to request a second medical opinion does not apply to a patient under age 16 admitted at the request of a parent or guardian.

NOTE: If you are in agreement with the hospitalization of the above patient, you need not take any further action.

______________________________ director's (or delegate's) signature

__ __ / __ __ / __ __ __ __ date signed (dd / mm / yyyy)

______________________________ director (or delegate) (please print)

Review panel office:
Dogwood Building, Holly Drive
2601 Lougheed Highway
Coquitlam BC V3C 4J2
Phone: (604) 524-7219 or 524-7220
Fax: (604) 524-7216

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FORM 17
MENTAL HEALTH ACT
[Section 34.2, R.S.B.C. 1996, c. 288]

NOTIFICATION TO NEAR RELATIVE
(DISCHARGE OF INVOLUNTARY PATIENT)

This is to notify ______________________________
first and last name of near relative (please print)

of ______________________________ ,
address

being a near relative* of ______________________________
first and last name of discharged patient (please print)

of ______________________________ ,
discharged patient's forwarding address (if known)

that the patient named above was discharged from ______________________________
name of designated facility

on ______________ .
date (dd / mm / yyyy)

______________________________ ______________
signature of director *date signed (dd / mm / yyyy)*

____
name of director (please print)

* The *Mental Health Act* includes the following persons under the term "near relative": wife, husband, mother, father, grandmother, grandfather, daughter, son, sister, brother, half sister, half brother, friend, caregiver, companion designated by patient, committee of person, and legal guardian.

While not mentioned in the Act, common-law spouse and same-sex partner are ordinarily considered included in the term "near relative".

For Office Use Only

The near relative named above was notified of the patient's discharge:

- ☐ ***by phone***
- ☐ ***by fax***
- ☐ ***by mail***
- ☐ ***in person***

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FORM 18
MENTAL HEALTH ACT
[Section 34.2, R.S.B.C. 1996, c. 288]

NOTIFICATION TO NEAR RELATIVE
(REQUEST OR ORDER FOR A REVIEW PANEL HEARING)

This is to notify ______________________________
first and last name of near relative (please print)

of ______________________________ ,
address of near relative

being a near relative of ______________________________ , who is an involuntary patient
first and last name of patient (please print)

in or through ______________________________ ,
name and address of designated facility *phone number*

that on __ __ / __ __ / __ __ __ __ a request was made by the patient or by a person on behalf of the
date (dd / mm / yyyy)

patient, or an order was made by the chair of the review panel for a hearing to determine whether the detention of the patient should continue.

If you wish to participate in the hearing or wish to provide information to the review panel, please contact the review panel office for information about the time, date and location of the hearing.

______________________________ __ __ / __ __ / __ __ __ __
signature of director or review panel chair *date signed (dd / mm / yyyy)*

____
name of director or review panel chair (please print)

How to contact the review panel office:

Dogwood Building, Holly Drive
2601 Lougheed Highway
Coquitlam BC V3C 4J2
Phone: (604) 524-7219 or
(604) 524-7220
Fax: (604) 524-7216

HLTH 3518 Rev. 2005/06/01

FORM 19
MENTAL HEALTH ACT
[Section 36, R.S.B.C. 1996, c. 288]

CERTIFICATE OF DISCHARGE

This is to certify that ______________________________,
first and last name of patient (please print)

was discharged from ______________________________
name of designated facility

on ____ ____ ____ .
date (dd / mm / yyyy)

____
director's signature

____ ____ ____
date (dd / mm / yyyy)

____
name of director (please print)

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FORM 20
MENTAL HEALTH ACT
[Section 37, R.S.B.C. 1996, c. 288]

LEAVE AUTHORIZATION

______________________________ is released on leave from
first and last name of patient (please print)

______________________________ ____________
name of designated facility (please print) *date (dd / mm / yyyy)*

The above-named patient's medical certificate expires on ____________.
date (dd / mm / yyyy)

CONDITIONS OF LEAVE ***(must be completed)***

Note: if above space is insufficient, continue on back of form

☐ It is my opinion that appropriate supports exist in the community to meet the conditions of leave.

I hereby authorize the physician named below, who has agreed to do so, to assume the following responsibilities:
- ☐ clinical care of the patient
- ☐ completion of renewal certificate
- ☐ renewal and modification of conditions of leave
- ☐ recall from leave
- ☐ discharge of the patient

______________________________ ____________
physician's name (please print) *phone number*

____
physician's address

____
director's signature

____
date signed (dd / mm / yyyy)

I confirm that the conditions of my leave
have been explained to me.

____
signature of patient

HLTH 3520 Rev. 2005/06/01

FORM 21
MENTAL HEALTH ACT
[Section 39 and 41, R.S.B.C. 1996, c. 288]

DIRECTOR'S WARRANT
(APPREHENSION OF PATIENT)

Province of British Columbia:

To all Peace Officers:

____
first and last name of patient (please print)

who is a patient who is authorized to be detained, and has been detained, in or through a designated facility,

☐ was recalled from leave on ____________ *date (dd / mm / yyyy)* and has not returned to the designated facility.

OR

☐ left the ______________________ *designated facility* on ____________ *date (dd / mm / yyyy)* without having been discharged.

This warrant expires on ____________ *date (dd / mm / yyyy) if applicable* unless one of the following conditions applies:

☐ charged with an offence

☐ liable to imprisonment

☐ likely to endanger the patient's own safety or the safety of others (as determined by the director)

You are therefore commanded, in Her Majesty's name, to immediately apprehend the above-named person and to transport that person to the ______________________
name of designated facility

Signed ______________________ *director's signature*   ____________ *date (dd / mm / yyyy)*

Name ______________________ *director's name (please print)*

at ______________________ *municipality*, British Columbia

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APPENDIX 17

SUGGESTED ADDITIONAL FORMS (NOT UNDER THE *MENTAL HEALTH ACT*)

The following forms are not required under the *Mental Health Act*, however, they have proven useful in some communities and are proposed as options for consideration.

S1 *Mental Health Act* Medical Certificate (Involuntary Admission) Completion Checklist (see also Appendix 3, section 6.0 and Appendix 4, section 1.1)

S2 Request for a Second Medical Opinion (see also Appendix 4, section 1.4)

S3 BCACP Police Triage Guide (see also Appendix 5, section 1.0)

S4 Mental Health Occurrence & Crisis Triage Rating Scale (see also Appendix 5, section 1.0)

S5 Crisis Triage Rating Scale (expanded form) (see also Appendix 5, section 1.0)

S6 Proposed Patient Apprehension Request (see also Appendix 5, section 1.0)

S7 Extended Leave: Assignment of Additional Director's Functions (see also "Initiating Extending Leave" under section 6.2 of the Guide)

S1: *MENTAL HEALTH ACT* MEDICAL CERTIFICATE (INVOLUNTARY ADMISSION) COMPLETION CHECKLIST (see also Appendix 3, Section 6.0 and Appendix 4, Section 1.1)

***MENTAL HEALTH ACT* MEDICAL CERTIFICATE (INVOLUNTARY ADMISSION) COMPLETION CHECKLIST**

Dear Physician:

Re:____

Your Medical Certificate accompanying the above-named was not in order.

Would you, therefore, kindly return the Medical Certificate with the necessary change(s), as indicated? *(Changes must be initialed.)*

Physician's name ( ) ____________________________

Person's name ( ) ____________________________

Date of examination ( ) ____________________________

"In my opinion, this person...." ( ) ____________________________

Person was/was not brought to me by a police officer under the provisions of section 28 (1) ( ) ____________________________

Signature ( ) ____________________________

Physician's address and telephone number ( ) ____________________________

Date signed ( ) ____________________________

Other ( ) ____________________________

Thank you for your cooperation.

Yours truly,
Admitting Department

Please fax or mail the completed Medical Certificate as soon as possible to the Admitting Department at the address listed below:

____

____

S2: REQUEST FOR A SECOND MEDICAL OPINION (see also Appendix 4, Section 1.4)

REQUEST FOR A SECOND MEDICAL OPINION
SECTION 31 OF THE BC *MENTAL HEALTH ACT*

Date: ______________________

Dr.: ______________________

Fax: ______________________

_______ _________________ DOB _________________ a current patient Certified under the *Mental Health Act* at _______________________________________ has requested that you provide a SECOND MEDICAL OPINION as to the appropriateness of their current psychiatric treatment.

This right is provided for under the current *Mental Health Act* of BC, Section 31 (2). To be eligible to provide this service the Physician requested must be licenced to practice medicine in B.C.

Payment for this consultation is MSP billable, but other expenses incurred such, as travel reimbursement are the responsibility of the patient. The examination must occur as soon as reasonably practicable after the director receives the request.

The written second medical opinion must be delivered to the director no later than 2 days following the examination. Please indicate whether you are available to provide this service by faxing back this form to _______________.

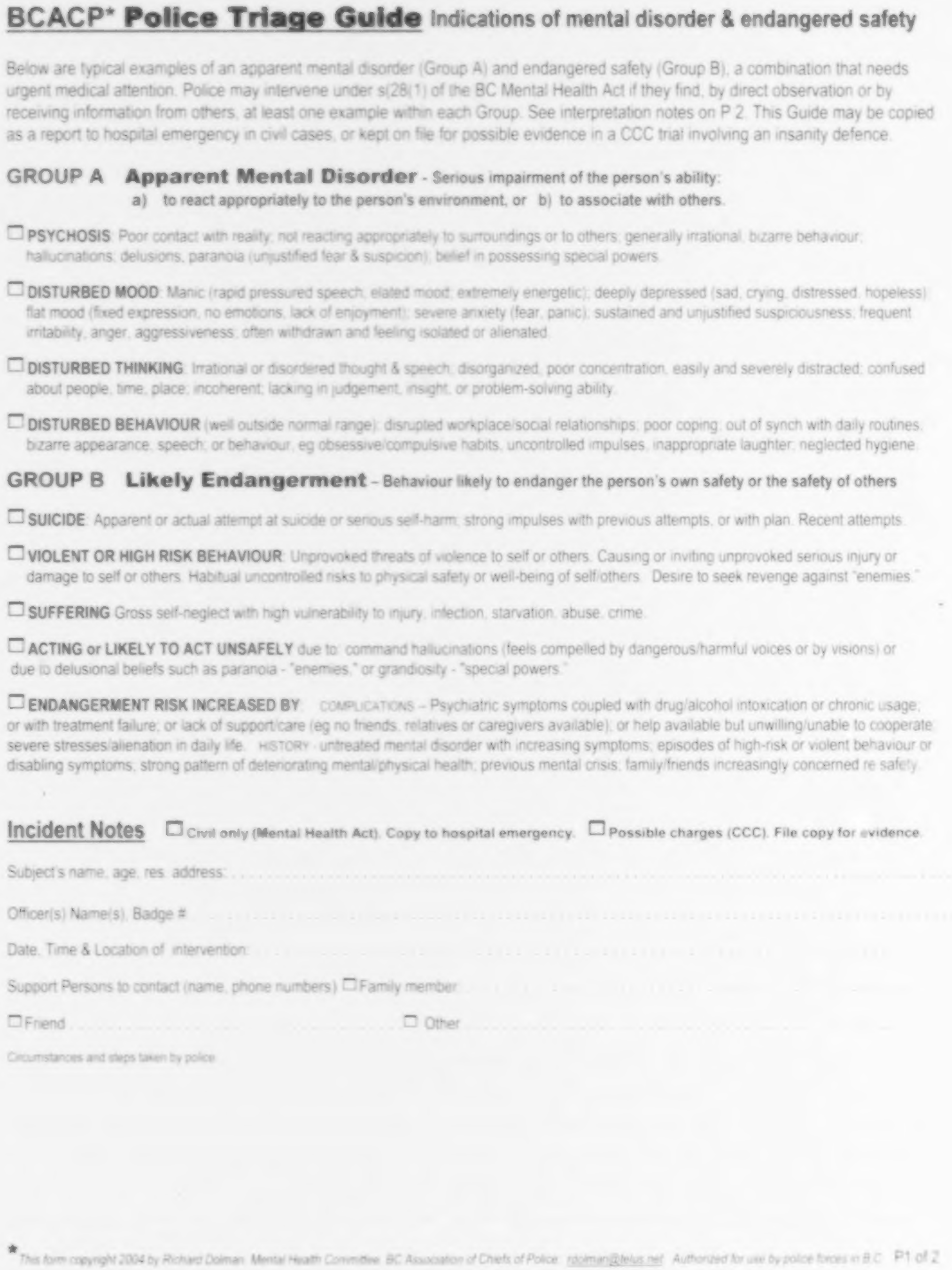
____ I am available to provide a SECOND MEDICAL OPINION

____ I am not available to provide a SECOND MEDICAL OPINION

If you have any questions, please contact the Director at (___phone_______).

Thank you.

S3: BCACP POLICE TRIAGE GUIDE (see also Appendix 5, Section 1.0)



BCACP* Police Triage Guide **Indications of mental disorder & endangered safety**

Below are typical examples of an apparent mental disorder (Group A) and endangered safety (Group B), a combination that needs urgent medical attention. Police may intervene under s(28(1) of the BC Mental Health Act if they find, by direct observation or by receiving information from others, at least one example within each Group. See interpretation notes on P 2. This Guide may be copied as a report to hospital emergency in civil cases, or kept on file for possible evidence in a CCC trial involving an insanity defence.

GROUP A Apparent Mental Disorder - **Serious impairment of the person's ability:**
a) to react appropriately to the person's environment, or b) to associate with others.

☐ **PSYCHOSIS**: Poor contact with reality; not reacting appropriately to surroundings or to others; generally irrational, bizarre behaviour; hallucinations; delusions, paranoia (unjustified fear & suspicion); belief in possessing special powers.

☐ **DISTURBED MOOD**: Manic (rapid pressured speech, elated mood; extremely energetic); deeply depressed (sad, crying, distressed, hopeless) flat mood (fixed expression, no emotions, lack of enjoyment); severe anxiety (fear, panic); sustained and unjustified suspiciousness; frequent irritability, anger, aggressiveness; often withdrawn and feeling isolated or alienated.

☐ **DISTURBED THINKING**: Irrational or disordered thought & speech; disorganized, poor concentration, easily and severely distracted; confused about people, time, place; incoherent; lacking in judgement, insight, or problem-solving ability.

☐ **DISTURBED BEHAVIOUR** (well outside normal range): disrupted workplace/social relationships; poor coping; out of synch with daily routines, bizarre appearance, speech; or behaviour, eg obsessive/compulsive habits, uncontrolled impulses, inappropriate laughter; neglected hygiene.

GROUP B Likely Endangerment – **Behaviour likely to endanger the person's own safety or the safety of others**

☐ **SUICIDE**: Apparent or actual attempt at suicide or serious self-harm; strong impulses with previous attempts, or with plan. Recent attempts.

☐ **VIOLENT OR HIGH RISK BEHAVIOUR**: Unprovoked threats of violence to self or others. Causing or inviting unprovoked serious injury or damage to self or others. Habitual uncontrolled risks to physical safety or well-being of self/others. Desire to seek revenge against "enemies."

☐ **SUFFERING** Gross self-neglect with high vulnerability to injury, infection, starvation, abuse, crime.

☐ **ACTING or LIKELY TO ACT UNSAFELY** due to: command hallucinations (feels compelled by dangerous/harmful voices or by visions) or due to delusional beliefs such as paranoia - "enemies," or grandiosity - "special powers."

☐ **ENDANGERMENT RISK INCREASED BY**: COMPLICATIONS – Psychiatric symptoms coupled with drug/alcohol intoxication or chronic usage; or with treatment failure; or lack of support/care (eg no friends, relatives or caregivers available); or help available but unwilling/unable to cooperate; severe stresses/alienation in daily life. HISTORY - untreated mental disorder with increasing symptoms; episodes of high-risk or violent behaviour or disabling symptoms; strong pattern of deteriorating mental/physical health; previous mental crisis; family/friends increasingly concerned re safety.

Incident Notes ☐ **Civil only (Mental Health Act). Copy to hospital emergency.** ☐ **Possible charges (CCC). File copy for evidence.**

Subject's name, age, res. address: ....

Officer(s) Name(s), Badge # ....

Date, Time & Location of intervention: ....

Support Persons to contact (name, phone numbers) ☐ Family member ....

☐ Friend .... ☐ Other ....

Circumstances and steps taken by police

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Interpretation of s28(1), BC Mental Health Act

The BC Mental Health Act s28(1) says police "may apprehend and immediately take a person to a physician for examination if satisfied from personal observations, or information received, that the person: a) is acting in a manner likely to endanger that person's own safety or the safety of others, ***and*** b) is apparently a person with a mental disorder."

"May apprehend" does not mean arrest and the Act does not require any offence to be involved. If subject refuses to let police enter, the Act in itself does not provide specific authority but police may cite common law duty to investigate & enter by force if necessary in order to protect life & prevent injury. An Ontario Appeal Court found authority for police & ambulance crew to enter a private dwelling by force to make sure the subject was not a danger to himself or others. Ref: R. vs Nicholls (1999) 139 CCC (3d) 253 (Ont. C.A.). Because of common law authority to enter, no Feeney warrant is needed. If subject is unwilling to be taken to hospital for examination, apprehension may include a technical arrest. The Act also authorizes police apprehension on medical certificates or on warrants. In s41(6) there is a no-warrant authority, on hospital request, for police to return an escaped involuntary patient within 48 hrs. A hospital Director's warrant for the same purpose is good for 60 days. Anyone can apply to a provincial court judge or a justice of the peace for a Judicial Warrant, to apprehend a person for hospital examination. Forms and notes are in the official Guide to the Act.

"Information received" means police may use collateral information (received from family, partner, friends, or observations by other independent witnesses, etc.) in deciding whether to intervene & whether to apprehend the person. Such collateral information is needed, for example, when the subject has left the scene, or is locked in a room, or is deliberately masking symptoms, or not talking, or mental state is obscured by intoxication.

"Likely to endanger" does not require actual or attempted physical violence to self or others. It is sufficient for police to find that endangerment of safety - or harm - is likely to occur. Examples include apparent attempts at suicide or at serious self-harm, or strong suicide impulses with previous attempts or plan; being vulnerable to predators; spending recklessly at peril of losing essential assets or supports; plotting revenge against "enemies."

"Mental disorder" is somewhat open to interpretation. Diagnostic details do not appear in the Act. It is simply defined as: *"a disorder of the mind that requires treatment & seriously impairs the person's ability a) to react appropriately to the person's environment, or b) to associate with others."* Treatment is defined as psychiatric treatment (e.g. antipsychotic medication - which depends on diagnosis). Police are not trained or authorized to diagnose, but general experience and instinct may help them decide if subject's behaviour is well beyond the normal range. If the quoted (in italic type) definition of mental disorder appears to apply, along with the endangerment criteria of s28(1), but police remain unsure of the type of disorder, they should transport the subject to hospital for diagnosis by a physician.

Notes on additional police concerns

Managing suicide risk Police can apprehend under s28 for apparent attempts or serious threats of suicide or serious self-harm. Such behaviour is likely to be caused by a mental disorder that requires treatment - which can only be decided by a physician. Also such behaviour needs police intervention when it is likely to endanger & is not an appropriate reaction to the environment (as compared with seeking treatment or other help).

Attending at hospital With s28 apprehension, police need to attend at hospital until a doctor admits the subject &/or signs a medical certificate of committal, and police should continue to attend if subject is unruly, until medical staff can take over custody safely. Sources of police authority for this function include: common law (preserve peace, protect life & property, enforce the law); Criminal Code (s31 arrest for breaching peace, s495(1)(a) arrest person about to commit indictable offence). Hospital staff should assess the subject and take custody without undue delay.

Physician's committal criteria - Only a physician can commit a person to involuntary hospital treatment, based on need to prevent the subject's substantial mental or physical deterioration, or for the protection of the subject or others (from harms). The physician does not need to find likely endangerment.

If situation does not meet criteria for police apprehension - a) Advise family & friends about alternative intervention via judicial warrant, which has broader criteria than endangerment (it aims to prevent substantial mental or physical deterioration, or protecting the person or others): anyone can apply for such a warrant to a judge or justice of the peace. See forms & notes in the official Guide to the Act. b) Phone subject's doctor or caseworker. c) Refer the subject to Mental Health Center, outreach, advocacy, support groups, or after-hours emergency mental health services.

If an alleged offense is involved - Beyond the transport-to-hospital authority of the MH Act, police have other authority to take an alleged offender with an apparent mental disorder to police lockup, where he or she can have a psychiatric examination. The triage examples in Group A of this form are indicators of psychiatric illness. These and police notes on state of mind & behaviour of the accused at the time of the alleged offence can be useful evidence in a trial involving an insanity defense. In such a trial, the court has several options with several outcomes. See the official Guide to the Act., and <**www.PIIMIC.com**>click on Legal Issues topic, click on Mentally Disordered Offender (MDO) Intervention.

Diversion - If subject has committed a minor offence or engaged in low-risk nuisance behaviour, police have non-arrest alternatives. Examples of "diversion" alternatives: contacting subject's family or caregivers; taking the subject to hospital; court ordered follow-up through Forensic services.

Duty To Warn to protect public safety - If a subject with apparent mental disorder seriously threatens a specific person or group, police have a criminal code duty to protect public safety; Others, including health professionals, may have an ethical or legal duty to warn and a duty to protect public safety, which over-rides privacy concerns. BC privacy legislation does not prevent such information-sharing where public safety is involved.

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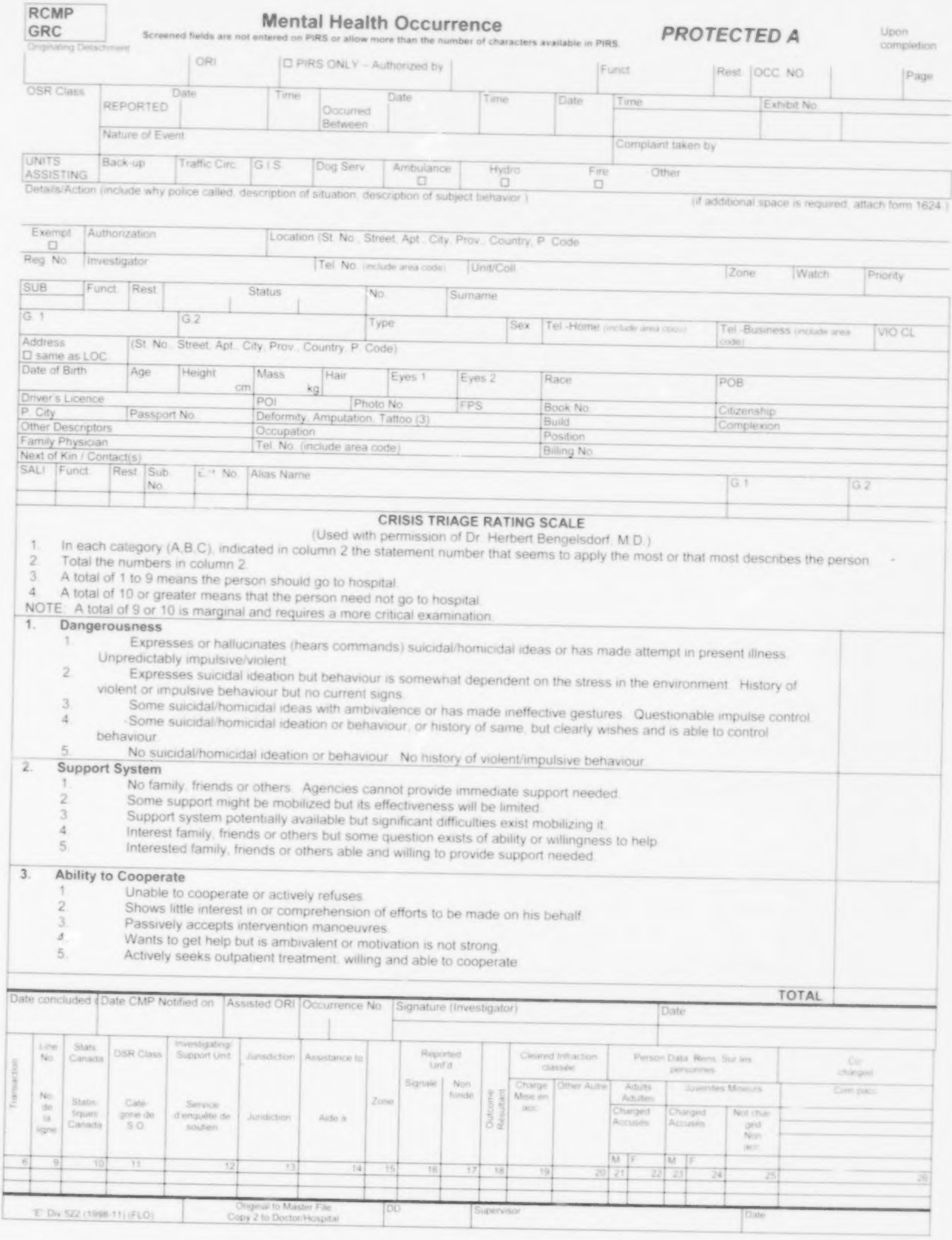
S4: MENTAL HEALTH OCCURRENCE & CRISIS TRIAGE RATING SCALE (see also Appendix 5, Section 1.0)



RCMP
GRC
Originating Detachment

Mental Health Occurrence

Screened fields are not entered on PIRS or allow more than the number of characters available in PIRS.

PROTECTED A

Upon completion

ORI	☐ PIRS ONLY – Authorized by		Funct	Rest	OCC. NO	Page

OSR Class	REPORTED	Date	Time	Occurred Between	Date	Time	Date	Time	Exhibit No
	Nature of Event							Complaint taken by	

UNITS ASSISTING	Back-up	Traffic Circ.	G.I.S.	Dog Serv.	Ambulance ☐	Hydro ☐	Fire ☐	Other	

Details/Action (include why police called, description of situation, description of subject behavior.)

(if additional space is required, attach form 1624.)

Exempt ☐	Authorization	Location (St. No., Street, Apt., City, Prov., Country, P. Code				
Reg. No.	Investigator	Tel. No. (include area code)	Unit/Coll	Zone	Watch	Priority

SUB	Funct.	Rest	Status	No.	Surname				
G. 1		G.2		Type	Sex	Tel.-Home (include area code)	Tel.-Business (include area code)	VIO CL	
Address ☐ same as LOC.	(St. No., Street, Apt., City, Prov., Country, P. Code)								
Date of Birth	Age	Height cm	Mass kg	Hair	Eyes 1	Eyes 2	Race	POB	
Driver's Licence			POI	Photo No.	FPS		Book No.	Citizenship	
P. City	Passport No.		Deformity, Amputation, Tattoo (3)				Build	Complexion	
Other Descriptors			Occupation				Position		
Family Physician			Tel. No. (include area code)				Billing No.		
Next of Kin / Contact(s)									
SALI	Funct.	Rest	Sub. No.	[illegible] No.	Alias Name	G.1	G.2		

CRISIS TRIAGE RATING SCALE

(Used with permission of Dr. Herbert Bengelsdorf, M.D.)

1. In each category (A,B,C), indicated in column 2 the statement number that seems to apply the most or that most describes the person.
2. Total the numbers in column 2.
3. A total of 1 to 9 means the person should go to hospital.
4. A total of 10 or greater means that the person need not go to hospital.

NOTE: A total of 9 or 10 is marginal and requires a more critical examination.

1. **Dangerousness**
   1. Expresses or hallucinates (hears commands) suicidal/homicidal ideas or has made attempt in present illness. Unpredictably impulsive/violent.
   2. Expresses suicidal ideation but behaviour is somewhat dependent on the stress in the environment. History of violent or impulsive behaviour but no current signs.
   3. Some suicidal/homicidal ideas with ambivalence or has made ineffective gestures. Questionable impulse control.
   4. Some suicidal/homicidal ideation or behaviour, or history of same, but clearly wishes and is able to control behaviour.
   5. No suicidal/homicidal ideation or behaviour. No history of violent/impulsive behaviour.
2. **Support System**
   1. No family, friends or others. Agencies cannot provide immediate support needed.
   2. Some support might be mobilized but its effectiveness will be limited.
   3. Support system potentially available but significant difficulties exist mobilizing it.
   4. Interest family, friends or others but some question exists of ability or willingness to help.
   5. Interested family, friends or others able and willing to provide support needed.
3. **Ability to Cooperate**
   1. Unable to cooperate or actively refuses.
   2. Shows little interest in or comprehension of efforts to be made on his behalf.
   3. Passively accepts intervention manoeuvres.
   4. Wants to get help but is ambivalent or motivation is not strong.
   5. Actively seeks outpatient treatment, willing and able to cooperate.

TOTAL

Date concluded	Date CMP Notified on	Assisted ORI	Occurrence No.	Signature (Investigator)	Date

Transaction	Line No. No. de la ligne	Stats Canada Statistiques Canada	OSR Class Catégorie de S.O.	Investigating/Support Unit Service d'enquête de soutien	Jurisdiction Juridiction	Assistance to Aide à	Zone	Reported Unf'd Signalé	Non fondé	Outcome Résultant	Cleared Infraction classée Charge Mise en acc.	Other Autre	Person Data Rens. Sur les personnes Adults Adultes Charged Accusés M	F	Juveniles Mineurs Charged Accusés M	F	Not charged Non acc.	Co changed Com pacc
6	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26

'E' Div 522 (1998-11) (FLO)	Original to Master File Copy 2 to Doctor/Hospital	DD	Supervisor	Date

S5: CRISIS TRIAGE RATING SCALE - 2ND CONTACT (USED BY TORONTO PD) DRAFT FOR DISCUSSION (see also Appendix 5, Section 1.0)

CIRCLE THE MOST APPROPRIATE NUMBER IN EACH SECTION

Section A: Dangerous Behaviour

1. Expresses or hallucinates (hears commands) suicidal/homicidal ideas, or has made attempt in present illness. Unpredictably impulsive/violent
2. Expresses suicidal ideation but behaviour is somewhat dependent on the stress in the environment. History of violence or impulsive behaviour but no current signs.
3. Some suicidal/homicidal ideas with ambivalence or has made ineffective gestures. Questionable impulse control
4. Some suicidal/homicidal ideation or behaviour, or history of same, but clearly wishes and is able to control behaviour
5. No suicidal/homicidal ideation or behaviour. No history of violent/impulsive behaviour

Section B: Support System

1. No family, friends or others. Agencies cannot provide immediate support needed.
2. Some support might be mobilized, but its effectiveness will be limited.
3. Support system potentially available, but significant difficulties exist mobilizing it.
4. Interested family, friends or others, but some question exists of ability or willingness to help
5. Interested family, friends or others able and willing to provide support needed.

SECTION C: ABILITY TO COOPERATE

1. Unable to cooperate or actively refuses
2. Shows little interest in or comprehension of efforts to be made on his/her behalf
3. Passively accepts intervention maneuvers
4. Wants to get help but is ambivalent or motivation is not strong
5. Actively seeks outpatient treatment, willing and able to cooperate

SECTION D: ALCOHOL USE SCALE

1. Client moderately to severely intoxicated
2. Client mildly intoxicated
3. Client admits to recent abuse of alcohol but is not clearly impaired
4. Client shows no signs of intoxication and reports no use of alcohol but has a past history of alcohol abuse
5. No history or evidence of alcohol abuse

SECTION E: DRUG USE SCALE

1. Client moderately to severely impaired
2. Client mildly impaired
3. Client admits to recent abuse of drugs but is not clearly impaired
4. Client shows no signs of impairment and reports no recent use of drugs but has a past history of drug use
5. No history or evidence of drug use

S6: PROPOSED PATIENT APPREHENSION REQUEST (see also Appendix 5, Section 1.0)

PROPOSED PATIENT APPREHENSION REQUEST

Date: ______________________________

To: ____
(RCMP detachment or municipal police force)

From: Name: __________________________ Phone: ______________

Address: ____

Relationship to Proposed Patient: _________________________________

Re: Name: __________________________ Phone: ______________
(Patient)

Birthdate: _________________________ Address: _______________

Pursuant to section 28 (1) of the *Mental Health Act* of B.C., I hereby request that you take the above-named person into custody and take this individual to a hospital emergency department for examination by a physician. The reasons for this request are as follows:

1. My prior knowledge of the patient:
2. Patient's current behavior/mental state:
3. In my professional opinion, the above-described behavior/mental state is the result of serious mental disorder.
4. In my professional opinion, the patient's behavior is likely to threaten his or her own safety or the safety of others.
5. Suggestions for apprehension procedures:

Signature: ____

S7: EXTENDED LEAVE: ASSIGNMENT OF ADDITIONAL DIRECTOR'S FUNCTIONS (see also "Initiating Extended Leave" under Section 6.2 of the Guide)

Suggested Form

(Sample)

Extended Leave

Assignment of Additional Director's Functions (under the *Mental Health Act*)
(To accompany Form 20)

______________________________ is released on leave from
(Patient's name)

______________________ Hospital on ______________.
(date)

In regard to the above named patient, and until the leave is terminated, the additional functions of the Director of the psychiatric unit (designated facility) under the *Mental Health Act* (listed below), which have not been assigned to a community physician on the Form 20, shall be assigned to:

____
Name Position Title Name of Organization

____
Address phone

I Hereby Authorize the above named person/position, who has agreed to do so, to assume the following authorities and/or responsibilities:

______________________ ______________________
Director's Signature Date

____
Name (Printed)

☐ Review Panel Notification - 12 months (Act s. 25 (1.1))
☐ "Deemed" Consent (Act s. 31)
☐ Requests for Second Medical Opinions (Act s. 31; Reg. s. 8)
☐ Rights Advice (Act s. 34)
☐ Nomination of/Notification of Near Relatives (Act s. 34.2 (2) & (4))
☐ Authorizing Leave/Signing Form 20 (Act s. 37; Reg s. 9(1))
☐ Transfer to Another Hospital under Recall Provisions (Reg s.9(5); Act s. 39(2)(b) & 35(1)&(3))
☐ Issue a Warrant (Form 21) (Act s. 41(1))

APPENDIX 18

GLOSSARY

The Glossary provides simple definitions for the following terms which appear in the *Mental Health Act*. Most of these terms are explained in greater detail in the main body of the Guide.

"Admission" refers to admission to a designated facility as a voluntary or involuntary patient under the *Mental Health Act*, or as a voluntary patient under the *Hospital Act*. It should be noted that a patient may be in hospital as a voluntary patient at the time that he/she is admitted as an involuntary patient.

"Apprehend" refers to authority under the *Mental Health Act* for police to take a person into custody and to a physician for an examination or to return a patient to a designated facility on the authority of a warrant.

"Consent for Treatment" refers to the need for a person, admitted as a voluntary patient for treatment of a mental disorder in a designated facility, to give consent before treatment can be provided. When a person is admitted as an involuntary patient, the Act provides for compulsory treatment with the director's authorization as a substitute for the person's consent.

"Designated Facility" refers to specific hospitals or other facilities where a person may be admitted under authority of the *Mental Health Act*.

"Detention" refers to involuntary admission and stay in a designated facility.

"Discharge" may refer to termination of status as an involuntary patient or termination of stay in a designated facility. For example, patients can be discharged from involuntary status without being discharged from the designated facility, if their status is changed to voluntary.

"Habeas Corpus" in Section 33(3) of the Act refers to the right to have a court determine if the detention of a person is done according to the law.

"Involuntary Admission Criteria" refers to the conditions which must be met in order for a person to be involuntarily admitted to a designated facility. (Section 22(3) of the Act).

"Leave" from a designated facility refers to the authority of the director to release an involuntary patient into the community under specific conditions. Short Term or Visit Leave is 14 days or less while Extended Leave is longer than 14 days.

"Lieutenant Governor in Council" in Section 2 of the Act refers to the Cabinet of the government of British Columbia.

"Medical Certificate" refers to Form 4 of the Mental Health Regulation which must be completed by a physician in order to involuntarily admit a person with a mental illness to a designated facility.

"Mental Disorder" refers to a mental illness which is referenced in Section 1 of the Act. This can include a brain injury or dementia because they are regarded as illnesses subject to treatment.

"Protection" of the patient or others is included as a basis for involuntary admission. It includes protection from harms that relate to the social, family, vocational or financial life or physical condition of a person.

"Renewal Certificate" refers to Form 6 of the Mental Health Regulation which must be completed by a physician following examination of an involuntary patient in order to extend the involuntary status of the patient.

"Review Panel" refers to the right of an involuntary patient to apply to an independent board for a hearing to determine whether the patient should continue to be detained.

"Second Medical Opinion" refers to the right of a patient or someone on the patient's behalf, under Section 31(2) of the Act, to request a second medical opinion on the appropriateness of the treatment.

"Warrant by a Facility Director" refers to an order under Section 41 of the Act. The warrant provides authority to return a patient to a designated facility when the patient leaves without authorization or to recall a patient on extended leave if the patient refuses to return.

"Warrant by a Judge" means an order by a Judge under Section 28 of the Act that a person be taken by police to a designated facility.